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## HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.



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FEDERAL REGISTER

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# Contents

# List of CFR Parts Affected

**The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month.**

**A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.**

# Presidential Documents

## Title 3—The President

PROCLAMATION 4058

## Medical Library Association Day

*By the President of the United States of America*

### A Proclamation

Since its establishment in 1898 as the only national professional organization in its field, the Medical Library Association has devoted itself to making the vast treasures of biomedical development accessible to science. The Association has been responsible for advancing the practice of medical library science, improving the professional standards of medical libraries, and maintaining a liaison with other organizations dedicated to the improvement of health.

As a tribute to our medical librarians, the Congress, by Senate Joint Resolution 103, has requested the President to issue a proclamation designating June 1, 1971, as Medical Library Association Day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Tuesday, June 1, 1971, as Medical Library Association Day.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of June, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-fifth.

Richard Nixon

[FR Doc.71-7912 Filed 6-3-71;8:56 am]

# Rules and Regulations

## Title 7—AGRICULTURE

### Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

### PART 59—INSPECTION OF EGGS AND EGG PRODUCTS

*Correction*

In F.R. Doc. 71-7158 appearing at page 9814 in the issue of Friday, May 28, 1971, the following changes should be made:

1. The first word in the penultimate line of § 59.110(a) reading "by" should read "be".

2. The first word in § 59.118 reading "inspector" should read "inspectors".

3. The word "any" appearing in the ninth line of § 59.146(d) should read "an".

4. The third line of § 59.200(a) now reading "any egg or egg products in commerce" should read "any eggs or egg products in commerce".

5. The figures in § 59.415 have been transposed and should be changed so that Figure 3 in paragraph (a) appears as Figures 4 in paragraph (b) and Figure 4 in paragraph (b) appears as Figure 3 in paragraph (a).

6. The first word in the penultimate line of § 59.500(k) reading "utilize" should read "utilized".

7. In § 59.540(h) the word "so" should be added to the second line so that it will read "be so constructed as will facilitate thorough".

8. In the first line of § 59.640(b)(3) the word "a" should be added so that the line will read "(3) Request a final survey be made by a".

9. The word "regarded" appearing in the first line of § 59.720(b)(2) should read "regraded".

### Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[953.208]

### PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

#### Expenses and Rate of Assessment

Notice of rule making regarding the proposed expenses and rate of assessment, to be effective under Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR Part 953), regulating the handling of Irish potatoes grown in the Southeastern States production area which is comprised of certain designated counties of Virginia and North Carolina, was published in the FEDERAL REGISTER May 21, 1971 (36 F.R. 9252). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to file written data, views, or arguments pertaining thereto not later than 7 days following publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matter presented, including the proposals set forth in the aforesaid notice which were recommended on May 6 by the Southeastern Potato Committee, established pursuant to said amended marketing agreement and order, it is hereby found and determined that:

§ 953.208 **Expenses and rate of assessment.**

(a) The expenses the Secretary finds may be necessary to be incurred by the Southeastern Potato Committee, established pursuant to Marketing Agreement No. 104, as amended and this part, to enable such committee to carry out its functions pursuant to provisions of the aforesaid amended marketing agreement and order, during the fiscal period ending March 31, 1972, will amount to $11,125.

(b) The rate of assessment to be paid by each handler in accordance with the amended Marketing Agreement and this part shall be one-fourth of one cent ($0.0025) per hundredweight of potatoes handled by him as the first handler thereof during the said fiscal period: *Provided*, That potatoes for canning, freezing, and "other processing" as defined in the February 20, 1970, amendment to the act (Public Law 91-196) shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section shall have the same meaning as when used in the said amended marketing agreement and this part.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable potatoes from the beginning of such fiscal period, and (2) the current fiscal period began on April 1, 1971, and the rate of assessment herein fixed will automatically apply to all assessable potatoes beginning with such date.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated: June 1, 1971.

PAUL A. NICHOLSON,
*Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.*

[FR Doc.71-7827 Filed 6-3-71;8:54 am]

## Title 9—ANIMALS AND ANIMAL PRODUCTS

### Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

### PART 74—SCABIES IN SHEEP

#### Interstate Movement

Pursuant to the provisions of sections 4 through 7 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and section 1 through 4 of the Act of March 3, 1905, as amended (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126), Part 74, Subchapter C, Chapter I, Title 9, Code of Federal Regulations, as amended, is hereby further amended in the following respects:

1. Section 74.2 is amended as follows:

a. By changing the heading and the introductory paragraph to read, respectively:

§ 74.2 **Designation of free areas.**

Notice is hereby given that sheep in the following States, Territories, and District are not known to be infected with scabies, and such States, Territories, and District are hereby designated as free areas:

* * * * *

b. By inserting "New Jersey," in alphabetical order in the list of free areas in subparagraph (d)(1); and

c. By deleting "(1)" preceding the list of free areas in paragraph heretofore designated as (a)(1) and by deleting all of subparagraph (2) and paragraph (b).

2. Section 74.3 is amended to read as follows:

§ 74.3 **Notice concerning sheep scabies.**

Notice is hereby given that although sheep scabies is not known to exist in any State, Territory, or District designated as a free area in § 74.2 at this time, scabies is a disease which by its nature may exist without showing symtoms during the summer months and reappear during cold-weather months. Historically some outbreaks of scabies have occurred in areas which immediately theretofore appeared to be free of scabies. Therefore in view of the nature of the disease and its prior existence in the United States, it is necessary to continue surveillance over flocks in the areas designated as free areas and to continue to regulate the interstate movement of sheep as provided in this part.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264-1265, as amended; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126; 29 F.R. 16210, as amended)

The foregoing amendments terminate the designation of Gloucester County and Hunterdon County, N.J., as infected areas and eradication areas, and classify New Jersey as a free area for purposes of the regulations. The amendments relieve restrictions heretofore applicable to the interstate movement of sheep from or into infected or eradication areas, but leave in effect other provisions of the regulations relating to the interstate movement of sheep from or into free areas. The amendments must be made effective promptly to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

*Effective date.* The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER. However, the revocation by such amendments of the designation of infected areas or eradication areas shall not affect violations of the regulations that occurred, liabilities that were incurred, or rights that accrued prior to said effective date.

Done at Washington, D.C., this 28th day of May 1971.

F. MULHERN,
*Acting Administrator,*
*Agricultural Research Service.*

[FR Doc.71-7824 Filed 6-3-71;8:54 am]

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[Docket No. 71-566]

## PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

### Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, paragraph (e)(5) relating to the State of Texas is amended to read:

(5) *Texas.* (i) All of Collin, Harris, Galveston, Montgomery, and Tom Green Counties.

(ii) That portion of the State of Texas comprised of all of Bell, Bosque, Callahan, Comanche, Eastland, Ellis, Erath, Hill, Hood, Johnson, McLennan, Somervell, Tarrant, and Williamson Counties and portions of Brown, Coryell, Hamilton, Limestone, Mills, Navarro, and Stephens Counties, and bounded by a line beginning at the junction of the Tarrant-Dallas-Ellis County lines; thence, following the Dallas-Ellis County line in an easterly direction to the junction of the Dallas-Ellis-Kaufman County lines; thence, following the Kaufman-Ellis County line in a southeasterly direction to the junction of the Kaufman-Ellis-Henderson County lines; thence, following the Ellis-Henderson County line in a southeasterly direction to the junction of the Ellis-Henderson-Navarro County lines; thence, following the Ellis-Navarro County line in a southwesterly direction to Interstate Highway 45 in Ellis County; thence, following Interstate Highway 45 in a southeasterly direction to State Highway 14 in Navarro County; thence, following State Highway 14 in a southwesterly direction to the Navarro-Freestone County line; thence, following the Navarro-Freestone County line in a southwesterly direction to the junction of the Navarro-Freestone-Limestone County lines; thence, following the Limestone-Freestone County line in a southeasterly direction to State Highway 14 in Limestone County; thence, following State Highway 14 in a southwesterly direction to State Highway 7 in Limestone County; thence, following State Highway 7 in a southwesterly direction to the Limestone-Falls County line; thence, following the Limestone-Falls County line in a northwesterly direction to the junction of the Limestone-Falls-McLennan County lines; thence, following the McLennan-Falls County line in a southwesterly direction to the junction to the McLennan-Falls-Bell County lines; thence, following the Bell-Falls County line in a southeasterly direction to the junction of the Bell-Milam-Falls County lines; thence, following the Bell-Milam County line in a southwesterly direction to the junction of the Bell-Milam-Williamson County lines; thence, following the Williamson-Milam County line in a southeasterly direction to the junction of the Williamson-Milam-Lee County lines; thence, following the Williamson-Lee County line in a southwesterly direction to the junction to the Williamson-Lee-Bastrop County lines; thence, following the Williamson-Bastrop County line in a generally northwesterly direction to the junction of the Williamson-Bastrop-Travis County lines; thence, following the Williamson-Travis County line in a generally northwesterly direction to the junction of the Williamson-Travis-Burnet County lines; thence, following the Williamson-Burnet County line in a northeasterly direction to the junction of the Williamson-Burnet-Bell County lines; thence, following the Bell-Burnet County line in a northwesterly direction to the junction of the Bell-Burnet-Lampasas County lines; thence, following the Bell-Lampasas County line in a northerly direction to the junction of the Bell-Lampasas-Coryell County lines; thence, following the Bell-Coryell County line in a northeasterly direction to State Highway 36 in Bell County; thence, following State Highway 36 in a northwesterly direction to U.S. Highway 84 in Coryell County; thence, following U.S. Highway 84 in a generally northwesterly direction to the Coleman-Brown County line; thence, following the Coleman-Brown County line in a northerly direction to the junction of the Coleman-Brown-Callahan County lines; thence, following the Callahan-Coleman County line in a westerly direction to the junction of the Callahan-Coleman-Taylor County lines; thence, following the Callahan-Taylor County line in a northerly direction to the junction of the Taylor-Callahan-Jones-Shackelford County lines; thence, following the Shackelford-Callahan County line in an easterly direction to the junction of the Shackelford-Callahan-Eastland County lines; thence, following the Shackelford-Eastland County line in an easterly direction to the junction of the Shackelford-Eastland-Stephens County lines; thence, following the Shackelford-Stephens County line in a northerly direction to U.S. Highway 180; thence, following U.S. Highway 180 in an easterly direction to State Highway 67 in Stephens County; thence, following State Highway 67 in a northeasterly direction to Farm to Market Road 717 in Stephens County; thence, following Farm to Market Road 717 in a southeasterly direction to U.S. Highway 180 in Stephens County; thence, following U.S. Highway 180 in an easterly direction to the Stephens-Palo Pinto County line; thence, following the Stephens-Palo Pinto County line in a southerly direction to the junction of the Stephens-Palo Pinto-Eastland County lines; thence, following the Palo Pinto-Eastland County line in an easterly direction to the junction of the Palo Pinto-Eastland-Erath County lines; thence, following the Palo Pinto-Erath County line in an easterly direction to the junction of the Palo Pinto-Erath-Hood County lines; thence, following the Palo Pinto-Hood County line in a northerly direction to the junction of the Palo Pinto-Hood-Parker County lines; thence, following the Parker-Hood County line in an easterly direction to the junction of the Parker-Hood-Johnson County lines; thence, following the Parker-Johnson County line in an easterly direction to the junction of the Parker-Johnson-Tarrant County lines; thence, following the Parker-Tarrant County line in a northerly direction to the junction of the Parker-Tarrant-Wise County lines; thence, following the Tarrant-Wise County line in an easterly direction to the junction of the Tarrant-Wise-Denton County lines; thence, following the Tarrant-Denton County line in an easterly direction to the junction of the Tarrant-Denton-Dallas County lines; thence, following the Tarrant-Dallas County line in a southerly direction to its junction with the Ellis County line.

(iii) That portion of Potter County bounded by a line beginning at the junction of the Potter-Oldham County line and the south bank of the Canadian River; thence, following the south bank of the Canadian River in a generally northeasterly direction to the south bank

of Lake Meredith; thence, following the south bank of Lake Meredith in a generally northeasterly direction to the Potter-Moore County line; thence, following the Potter-Moore County line in an easterly direction to the junction of the Potter-Moore-Carson County lines; thence, following the Potter-Carson County line in a southerly direction to the junction of the Potter-Carson-Armstrong-Randall County lines; thence, following the Potter-Randall County line in a westerly direction to the junction of the Potter-Randall-Oldham County lines; thence, following the Potter-Oldham County line in a northerly direction to its junction with the south bank of the Canadian River.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

*Effective date.* The foregoing amendment shall become effective upon issuance.

The amendment excludes all of Liberty and San Jacinto Counties and portions of Taylor, Falls, Coleman, and Shackelford Counties in Texas from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded areas. No areas in Liberty, San Jacinto, Taylor, Falls, Coleman, and Shackelford Counties in Texas remain under the quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of May 1971.

F. J. MULHERN,
*Acting Administrator,*
*Agricultural Research Service.*

[FR Doc.71-7771 Filed 6-3-71;8:49 am]

[Docket No. 71-567]

## PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

### Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, the introductory portion of paragraph (e) is amended by adding thereto the name of the State of Michigan; paragraph (g) is amended by deleting the name of the State of Michigan; and a new subparagraph (e)(7) relating to the State of Michigan is added to read:

(7) Michigan. That portion of Cass County comprised of Newberg Township and that portion of St. Joseph County comprised of Fabius Township.

2. In § 76.2, in paragraph (e)(4) relating to the State of North Carolina, a new subdivision (vi) relating to Onslow and Duplin Counties is added to read:

(4) *North Carolina.* * * *

(vi) The adjacent portions of Onslow and Duplin Counties bounded by a line beginning at the junction of the Onslow-Jones County line and U.S. Highway 258 in Onslow County; thence, following U.S. Highway 258 in a southeasterly direction to State Highway 24; thence, following State Highway 24 in a westerly direction to Secondary Road 1238; thence, following Secondary Road 1238 in a southeasterly direction to Secondary Road 1231; thence, following Secondary Road 1231 in a southerly direction to Secondary Road 1229; thence, following Secondary Road 1229 in a southeasterly direction to Secondary Road 1219; thence, following Secondary Road 1219 in a southwesterly direction to Secondary Road 1218; thence, following Secondary Road 1218 in a northwesterly direction to Secondary Road 1810 in Duplin County; thence, following Secondary Road 1810 in a generally westerly direction to Secondary Road 1715; thence, following Secondary Road 1715 in a generally northerly direction to State Highway 41; thence, following State Highway 41 in a northeasterly direction to Secondary Road 1713; thence, following Secondary Road 1713 in a southeasterly direction to the Duplin-Onslow County line; thence, following the Duplin-Onslow County line in a northwesterly direction to the junction of the Onslow-Duplin-Jones County lines; thence, following the Onslow-Jones County line in a northeasterly direction to its junction with U.S. Highway 258 in Onslow County.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

*Effective date.* The foregoing amendments shall become effective upon issuance.

The amendments quarantine portions of Cass and St. Joseph Counties in Michigan, and portions of Onslow and Duplin Counties in North Carolina because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portions of such counties.

The amendments also delete Michigan from the list of hog cholera free States in § 76.2(g), and the special provisions pertaining to the interstate movement of swine and swine products from or to such free States are no longer applicable to Michigan.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. The amendments also relieve restrictions on shipments into Michigan. Such restrictions are deemed unnecessary in view of the existence of hog cholera in Michigan. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of May 1971.

T. J. MULHERN,
*Acting Administrator,*
*Agricultural Research Service.*

[FR Doc.71-7772 Filed 6-3-71;8:49 am]

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[Docket No. 71-568]

## PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

### Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of

March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, the introductory portion of paragraph (e) is amended by adding thereto the name of the State of Indiana, and a new subparagraph (e)(1) relating to the State of Indiana is added to read:

(1) Indiana. The adjacent portions of Wabash and Kosciusko Counties bounded by a line beginning at the junction of County Road 100 West and State Highway 114 in Wabash County; thence, following County Road 100 West in a northerly direction to County Road 100 East in Kosciusko County; thence, following County Road 100 East in a northerly direction to State Highway 14; thence, following State Highway 14 in an easterly direction to County Road 700 East; thence, following County Road 700 East in a southerly direction to County Road 500 East in Wabash County; thence, following County Road 500 East in a southerly direction to State Highway 114; thence, following State Highway 114 in a westerly direction to its junction with County Road 100 West in Wabash County.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

*Effective date.* The foregoing amendment shall become effective upon issuance.

The amendment quarantines portions of Wabash and Kosciusko Counties in Indiana because of the existence of hog cholera. This action is deemed necessary to prevent spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portions of such counties.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog chlorea and must be made effective immediately to accomplish its purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of May 1971.

F. MULHERN,
*Acting Administrator,*
*Agricultural Research Service.*

[FR Doc.71–7773 Filed 6–3–71;8:49 am]

## PART 79—SCRAPIE IN SHEEP

### Deletion of Disinfectant

Pursuant to the provisions of sections 4 through 7 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and sections 1 through 4 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126) § 79.5 of Part 79, Subchapter C, Chapter I, Title 9, Code of Federal Regulations, as amended, is hereby further amended to read as follows:

**§ 79.5 Disinfection of facilities.**

Railroad cars, trucks, boats, aircraft and other means of conveyance, and all other facilities, including facilities for feeding, watering, and resting sheep, which are used in connection with the interstate movement of sheep from a quarantined area shall be thoroughly cleaned and disinfected immediately after each such use. Sodium hydroxide (Lye) prepared in a fresh solution in the proportion of not less than 1 pound avoirdupois of sodium hydroxide of not less than 95 percent purity to 6 gallons of water, or one 13½-ounce can to 5 gallons of water,[1] shall be used in such disinfection.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264–1265, as amended; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 29 F.R. 16210, as amended)

*Effective date.* This amendment shall become effective upon publication in the FEDERAL REGISTER (6–4–71).

The foregoing amendment deletes sodium carbonate from the list of disinfectants specified for use in disinfecting facilities under the provisions of § 79.5 of the regulations relating to scrapie in sheep. It has recently been established that sodium carbonate, by virtue of being a weak acid in solution, is ineffective against the virus of scrapie.

The amendment should be made effective promptly in order to facilitate the eradication of scrapie in sheep. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of May 1971.

F. J. MULHERN,
*Acting Administrator,*
*Agricultural Research Service.*

[FR Doc.71–7825 Filed 6–3–71;8:54 am]

[1] Due to the extremely caustic nature of sodium hydroxide solution, precautionary measures such as the wearing of rubber gloves, boots, raincoat, and goggles should be observed. An acid solution such as vinegar should be kept readily available in case any of the sodium hydroxide solution should come in contact with the body.

# Title 12—BANKS AND BANKING

## Chapter VII—National Credit Union Administration

## PART 741—REQUIREMENTS FOR INSURANCE

On April 14, 1971, notice of proposed rule making regarding requirements for insurance was published in the FEDERAL REGISTER 36 F.R. 7073–7074. After consideration of all such relevant matter as was presented by interested persons, the regulation as so proposed is hereby adopted, subject to the following change:

1. In § 741.3, line 9, change the word "impaired" to "unimpaired."

*Effective date.* This regulation is effective June 10, 1971.

HERMAN NICKERSON, Jr.,
*Administrator.*

MAY 25, 1971.

New Part 741 reads as follows:

Sec.
741.1 Minimum surety bond requirements.
741.2 Minimum period for verification of accounts.
741.3 Maximum borrowing authority.

AUTHORITY: The provisions of this Part 741 are issued under Section 209, 85 Stat. 1015, Public Law 91–468.

**§ 741.1 Minimum surety bond requirements.**

Any credit union which makes application for insurance of its accounts pursuant to title II of the Federal Credit Union Act must possess the minimum surety bond coverage stated in 12 CFR 701.20 in order for its application for such insurance to be approved and for such insurance coverage to continue.

**§ 741.2 Minimum period for verification of accounts.**

The Supervisory Committee of any credit union which makes application for insurance of its accounts pursuant to title II of the Federal Credit Union Act must verify or cause to be verified, under controlled conditions, the members' passbooks and accounts with the records of the treasurer not less frequently than once every 2 years. If such verification has not been made within 2 years prior to the date of submission of the application for insurance, the credit union concerned shall cause such verification to be completed prior to submission of such application and at least every 2 years thereafter.

**§ 741.3 Maximum borrowing authority.**

Any credit union which makes application for insurance of its accounts pursuant to title II of the Federal Credit

Union Act, in order for such application to be approved and for such insurance coverage to continue, must not borrow, from any source, an aggregate amount in excess of 50 per centum of its paid-in and unimpaired capital and surplus.

[FR Doc.71-7727 Filed 6-3-71;8:45 am]

# Title 15—COMMERCE AND FOREIGN TRADE

## Chapter III—Bureau of International Commerce, Department of Commerce

### SUBCHAPTER B—EXPORT REGULATIONS

### MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The 23d Gen. Rev. of the Export Regs. (Amdt. 23) Parts 370, 372, 373, and 379 of the Code of Federal Regulations are amended to read as set forth below.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.)

Effective Date: June 1, 1971.

RAUER H. MEYER,
*Director, Office of Export Control.*

### PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

1. In § 370.10, a new paragraph (i) is added to read as follows:

**§ 370.10 Exports controlled by U.S. Government agencies other than Office of Export Control.**

* * * * *

(i) U.S. Endangered Native Fish and Wildlife and Migratory Birds. Regulations administered by the Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, govern the export of migratory birds and U.S. endangered native fish and wildlife subject to the Endangered Species Conservation Act of December 5, 1969 (83 Stat. 275; 16 U.S.C. § 668cc (1969)). The regulations are issued under the authority of the above-cited reference.

### PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

2. In § 372.8, paragraph (c) is amended to read as follows:

**§ 372.8 Special types of individual license applications.**

* * * * *

(c) *Temporary exports*—(1) *Applications.* General License GTE (see § 371.22) authorizes the temporary export of commodities under certain conditions. The provisions of this § 372.8(c) apply to the temporary export of a commodity not exportable under General License GTE or any other general license. An application for a license covering a temporary export does not require the usual supporting documentation issued by either the consignee or the country of ultimate destination. Instead, the application shall include the following statement in the item entitled "Additional Information" or on an attachment thereto:

"The commodities described on this application are to be temporarily exported for (state purpose of export; e.g.: demonstration, testing, exhibition) and returned promptly to the United States after their use abroad as authorized, unless other disposition has been specifically requested and authorized in writing by the Office of Export Control.

In addition, since the applicant retains title to the commodities, he shall be shown on the application as the ultimate consignee, in care of the person who will have custody of the commodities abroad.

(2) Return of commodities to the United States. When commodities are returned to the United States after temporary use abroad in Country Group Q, S, W, Y, or Z, the applicant shall notify the Office of Export Control in writing. The notice shall include the case number shown on the related U.S. validated export license, the customs import entry number (if any) of the returned shipment, the date of return, and the port of entry at which all or any part of the commodities were returned to the United States. If only a part of the commodities are covered by the notification, a full explanation shall be included, and an additional written notification sent to the Office of Export Control for each partial return until the entire shipment described on the related export license is returned.

(3) Commodities not returned to the United States. If it is decided that the commodities are not to be returned to the United States, Form IA–1145, Request To Dispose of Commodities or Technical Data Previously Exported, or a letter, shall be sent to the Office of Export Control (Attn: 854), requesting authorization to dispose of the commodities. (See § 374.3.) In addition, except where the commodities are to be used on a temporary basis only at the proposed reexport destination and returned to the United States after such use, the reexport request shall be accompanied by any documents that would be required in support of an export license application for shipment of the same commodity directly to the proposed destination.

(4) Action by Office of Export Control. If Form IA–1145 or the letter request is approved, the Office of Export Control will validate and issue the second copy of Form IA–1145. If the request is disapproved, the applicant will be advised of such action. If it is subsequently desired to make any other use or disposition of the commodities that is not authorized by the validated Form IA–1145, a properly documented written request for amendment of the form shall be submitted. (Reexport or distribution authority does not relieve any person from complying with foreign laws. (See § 374.9).

### PART 373—SPECIAL LICENSING PROVISIONS

3. Supplement 1 to Part 373, Commodities Excluded From Certain License Procedures, is amended by adding or deleting the commodities set forth below.

The following commodities are added:

| *Export Control Commodity Number and Commodity Description* | |
|---|---|
| 513(7) | Monocrystalline and polycrystalline forms of the following metals: Beryllium, hafnium, tantalum, and zirconium. |
| 513(9) | Boric acid in which the boron-10 isotope comprises more than 20 percent of the total boron content. |
| 513(28a) | Helium isotopically enriched in the helium-3, isotope, in any form or quantity, and whether or not admixed with other materials, or contained in any equipment or device. |
| 514(31) | Rhenium compounds. |
| 663(12) | Beryllium oxide ceramic tubes, crucibles, and shapes in semifabricated or fabricated form. |
| 683(10)(11) [1] | Nickel powder with a nickel content of 99 percent or more and a particle size of over 200 microns. |
| 6895(8) [1] | Gallium metal powders; and gallium metal alloys, and amalgams, except electronic grades containing less than 1 percent gallium. |
| 6988(15) | Zirconium or zirconium alloy welding rods and wires containing more than 50 percent zirconium in which the ratio of hafnium content to zirconium content is less than one part to 500 parts by weight. |
| 6989(10) | Calcium metal castings and forgings containing less than one hundredth (0.01) percent by weight of impurities other than magnesium and less than 10 parts per million of boron. |
| 6989(12) | Gallium or gallium alloy castings and forgings, *except electronic grades containing less than 1 percent gallium.* |
| 6989(23) | Thermoelectric materials with a maximum product of the figure of merit (Z) and the temperature (T in °K) in excess of 0.75. |
| 71510(1) | Machine tools incorporating Laser, Maser, or Iraser devices. |
| 71510(3) | Tracer controlled machine tools, as follows: (a) Milling and boring machines with an accuracy of plus or minus 0.001 inch (plus or minus 0.025 mm.) and a repeatability of 0.0005 inch (0.012 mm.) or better and (b) lathes with an accuracy of plus or minus 0.0004 inch (plus or minus 0.01 mm.) and a repeatability of plus or minus 0.0002 inch (plus or minus 0.005 mm.) or better. |
| 71510(4) | Jig boring and/or jig grinding machines with accuracies better than plus or minus 0.00012 inch (0.003 mm.). |
| 71510(13) | Spin-forming machines with drive motors of 50 horsepower or over. |
| 71510(14) | Electron beam machines (including equipment utilizing the stimulated electromagnetic radiation technique, such as Lasers, Masers, and Irasers), *except equipment using the "sparking" technique.* |

7191(7) Cryogenic refrigeration equipment specially designed for maintaining ambient temperatures below minus 170° C. and (a) designed for use in marine, airborne, or space application, (b) ruggedized for mobile ground use or (c) designed to maintain operating temperatures for electrical, magnetic, or electronic equipment or components; and parts, n.e.c.

7191(9) Cryogenic refrigeration equipment consisting of, or containing as components thereof, jacketed containers for the storage or transportation of liquefied gases at temperatures below minus 274° F. (minus 170° C.), including mobile units, specially designed for (a) liquid fluorine; (b) liquid oxygen, nitrogen, or argon, with (i) multilaminar type insulation under vacuum, or (ii) other types of insulation and (1) having a fixed storage capacity of 500 tons or more, or (2) having a mobile capacity exceeding 1,200 gallons (4,542 liters) and an evaporation loss rate of less than 1.5 percent per day as determined at an ambient temperature of 75° F. (24° C.) without exposure to direct sunlight; or (c) liquefied gases boiling at temperatures below minus 328° F. (minus 200° C.) with (1) multilaminar type insulation under vacuum, or (ii) other types of insulation, having a liquid capacity of more than 250 gallons (946 liters) and an evaporation loss rate of less than 3 percent per day as determined at an ambient temperature of 75° F. (24° C.) without exposure to direct sunlight; and specially designed parts, n.e.c.

7191(11) Environmental chambers capable of pressures of 26 Torr or less for treating materials by a process involving a change in temperature; and specially designed parts and accessories, n.e.c.

7191(13) Equipment specially designed for the production of uranium hexofluoride ($UF_6$); and specially designed parts and accessories, n.e.c.

7192(33) Centrifugal countercurrent solvent extractors; and parts, n.e.c.

7195(5) Parts, accessories, and attachments specially designed for electron beam machines, except equipment using the "sparking" technique.

71980(1) Environmental chambers capable of pressures of 26 Torr or less, including those which also have a capability of simulating other constant environments, such as radiation and temperature; and specially designed parts and accessories, n.e.c.

722(12) Thermoelectric generators or devices, as follows: (a) Junctions and/or combinations of junctions using any thermoelectric material having a maximum product of the figure of merit (Z) and the temperature (T in °K) in excess of 0.75, (b) heat absorbing and/or electrical power generating devices containing any of the aforementioned junctions; or (c) other power generating devices which generate in excess of 10 watts per pound or 500 watts per cubic foot of the devices' basic thermoelectric components; and specially designed parts, components, and subassemblies, n.e.c.

7295(44) Numerical control servo-driven measuring or gauging machines specially designed for measuring at any point of the contour the dimensional shape and coutour characteristics of two- or three-dimensional objects, including objects of revolution.

7295(51) Process control instruments specially designed or modified for monitoring or controlling the processing of irradiated fissionable or fertile materials or irradiated lithium.

7295(66) Centrifugal testing apparatus or equipment having *any* of the following characteristics: (a) Driven by a motor or motors having a total rated horsepower greater than 400 horsepower, (b) capable of carrying a payload of 250 pounds or more, or (c) capable of exerting a centrifugal acceleration of 8 or more g on a payload of 200 pounds or more.

7295(78) Control instruments specially designed for environmental chambers capable of pressures of 26 Torr or less, including those which also have a capability of simulating other environments such as radiation and temperature.

7299(12) Electric arc devices, n.e.c., for generating a flow of ionized gas in which the arc column is constricted, except (a) devices wherein the flow of gas is for isolation purposes only, and (b) devices of less than 80 kilowatts for cutting, welding, plating and/or spraying; equipment incorporating such devices; and specially designed parts, accessories, and controls, n.e.c.

86140(5) Cameras incorporating image converters; and specially designed parts and accessories, n.e.c.

8619(44) Centrifugal testing apparatus or equipment having any of the following characteristics: (a) Driven by a motor or motors having a total rated horsepower greater than 400 horsepower, (b) capable of carrying a payload of 250 pounds or more, or (c) capable of exerting a centrifugal acceleration of 8 or more g on a payload of 200 pounds or more; and specially designed parts, n.e.c.

8619(36) Control equipment specially designed for hot or cold isostatic presses under No. 71980 which are subject to the Import Certificate/Delivery Verification procedure.

8619(37) Control equipment specially designed for other hot or cold isostatic presses under No. 71980 and parts, n.e.c.

8619(38) Control instruments specially designed for environmental chambers capable of pressures of 26 Torr or less, including those which also have a capability of simulating other environments, such as radiation and temperature; and specially designed parts, n.e.c. (See § 399.2 Int. 17.)

The following commodities are deleted:

*Export Control Commodity Number and Commodity Description*

513 Hafnium oxides containing 15 percent hafnium or less by weight; and monocrystalline gallium compounds.

514 Boron hydrides and nitrides, and boron carbides with a boron content of 73 percent or less by weight.

514 Hafnium compounds containing 15 percent or less hafnium by weight.

514 Zirconium compounds containing one part hafnium or more to 500 parts of zirconium.

662 High temperature refractory brick and similar shapes, cement, motar, and other refractory construction materials, n.e.c. containing zirconium oxide, or zirconium oxide stabilized with lime and/or magnesium oxide.

663 Crucibles and refractory products other than refractory construction materials, n.e.c., containing 96 percent or less by weight of magnesium oxide, or zirconium oxide, or containing zirconium oxide stabilized with lime and/or magnesium oxide.

683 Nickel powder with a nickel content of 98 percent or less regardless of particle size.

683 Other bars, rods, angles, shapes, sections, and wire of nickel alloy containing 32 percent or more nickel, except nickel-copper alloys containing not more than 6 percent of other alloying elements.

714 Other electronic computers, analog or digital (including digital differential analyzers) not identified by the code letter "A," following the Export Control Commodity Number on the Commodity Control List.

726 X-ray machines having any of the following characteristics: (a) Peak power exceeding 500 MW., (b) output voltage exceeding 500 KV. or (c) output current exceeding 2,000 amperes with pulse width of 0.2 microseconds or less; and parts and accessories, n.e.c.

## PART 379—TECHNICAL DATA

4. In § 379.4(e)(1), subdivision (iii) is amended by adding the following commodity thereto:

(aa) Pulse Doppler Sonar Navigation Systems (Export Control Commodity No. 7295).

[FR Doc.71-7809 Filed 6-3-71;8:52 am]

# Title 16—COMMERCIAL PRACTICES

## Chapter I—Federal Trade Commission

### SUBCHAPTER E—RULES, REGULATIONS, STATEMENTS OF GENERAL POLICY OR INTERPRETATION AND EXEMPTIONS UNDER THE FAIR PACKAGING AND LABELING ACT

## PART 501—EXEMPTIONS FROM REQUIREMENTS AND PROHIBITIONS UNDER PART 500

### Candles

Notice is given that no objections were filed in the matter of § 501.7 which prescribed an exemption for packaged and labeled tapered and irregularly shaped decorative candles from the requirements of § 500.7 of Part 500 of the Fair

Packaging and Labeling Act's regulations (36 F.R. 5689). Accordingly, the effective date of § 501.7, April 26, 1971, is confirmed.

Issued: May 24, 1971.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-7823 Filed 5-3-71;8:53 am]

# Title 19—CUSTOMS DUTIES

## Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 71-143]

## PART 22—DRAWBACK

### Miscellaneous Amendments

On November 18, 1970, notice of proposed rule making setting forth proposed amendments to the Customs Regulations, under which an investigation on the applicant's premises by the Customs Agency Service and assistance in preparing the applicant's drawback statement would be discontinued, was published in the FEDERAL REGISTER (35 F.R. 17724). Interested persons were given 30 days from the date of publication of the notice to submit relevant written data, views, or arguments regarding the proposed amendments to the regulations. Representations submitted pursuant to the notice have been carefully considered.

The amendments as proposed are hereby adopted subject to the following changes:

1. Section 22.4(h) is amended by providing that the drawback statement shall be furnished to the regional commissioner of customs in triplicate rather than in quadruplicate, and that the drawback statement shall be submitted to the Commissioner of Customs in quadruplicate rather than in quintuplicate.

2. Section 22.6(a) is amended by providing that the drawback statement shall be furnished to the regional commissioner of customs in triplicate rather than in duplicate, and that statements and supplemental statements in quadruplicate rather than quintuplicate relating to products covered by paragraph (g-1) of the section shall be forwarded to the Bureau for approval.

3. Section 22.6(a) is also amended by changing "(g)(1)" in the first and last sentences thereof to "(g-1)", the correct identity of the praagraph, and by substituting the word "forwarded" for "referred" in the last sentence.

4. Section 22.26(c) is corrected to refer to section 22.20(f) rather than to section 22.20(e).

5. Section 22.43 is amended to provide that schedules, supplemental schedules, and supplemental advisory schedules, when not incorporated in a drawback statement or supplemental statement, shall be referred for verification upon receipt by the regional commissioner.

The text of the amendments to sections 22.4, 22.6, and 22.43, and the correction of section 22.26, Part 22, Chapter I, title 19, Code of Federal Regulations, as adopted, is set forth below.

*Effective date.* These amendments shall become effective on July 1, 1971.

Applications which are pending on the effective date of the amendments may be processed under the regulations in their present form, or under the regulations as amended, at the option of the applicant.

[SEAL] MYLES J. AMBROSE, *Commissioner of Customs.*

Approved: May 25, 1971.

WILLIAM L. DICKEY, *Acting Assistant Secretary of the Treasury.*

**§ 22.4 Identification of imported merchandise and ascertainment of quantities for allowance of drawback; establishment of drawback rates.**

* * * * *

(h) Each manufacturer or producer shall submit to the regional commissioner of customs where his drawback entries will be liquidated a statement in triplicate describing the methods which he will follow and the records which he will keep for the purpose of establishing that the articles upon which drawback will be claimed have been manufactured or produced in the United States with the use of imported duty-paid merchandise within the meaning of section 313(a), Tariff Act of 1930, and that the records of identification, manufacture, or production and storage prescribed in this section have been maintained. In the case of operations under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, and in the case of operations under any combination of section 313(a) with section 313 (b), (d), or (g), the statement in quadruplicate shall be submitted to the Commissioner of Customs. The statement shall contain an agreement to follow the methods and keep the records described therein with respect to all articles manufactured or produced for exportation with benefit of drawback. Provision for the use of duty-paid merchandise or drawback products, the manufacture or production of articles not specified in the application for the rate, or the use of factories not named therein may be included in the statement prepared as a result of such application.

(i) If drawback entries are to be liquidated at more than one regional office, two additional copies of the statement shall be required for each additional office. The procedure outlined in this and the preceding paragraph shall be followed, so far as applicable, when applications for amendments of drawback rates, or supplemental statements, schedules, or supplemental advisory schedules are filed in accordance with paragraph (o), (p), or (q) of this section.

(j) If the statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations, the regional commissioner in a case under section 313(a), Tariff Act of 1930, or the Bureau in a case under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, and in the case of any combination of section 313(a) with section 313 (b), (d), or (g), will issue the rate of drawback on the articles described in the statement. In cases under § 22.6, the procedure in paragraphs (a) and (b) of that section shall be followed. When the statement in a case under section 313(a), Tariff Act of 1930, shows that entries are to be filed with more than one regional commissioner, the regional commissioner at the place first listed shall issue the rate, if that action is warranted.

* * * * *

(o) When a manufacturer or producer in whose behalf a rate of drawback has been established desires to have his rate amended under section 313(a), Tariff Act of 1930, or to change his statement filed under § 22.6 to cover additional articles, to include additional factories, to permit the use of other kinds of imported duty-paid merchandise or drawback products, to provide for a different basis for the liquidation of drawback entries, or to cover different methods of identification or manufacture, or other changes, he shall file an application therefor with the regional commissioner, district director, or port director of customs. The supplemental statement prepared as a result of such application shall be submitted to the regional commissioner where drawback entries filed under the existing rate of drawback are liquidated who shall issue the amendment, if that action is warranted. If entries are liquidated by more than one regional commissioner, the supplemental statement shall identify all such regional commissioners and the regional commissioner at the place first listed shall issue the amendment. The foregoing procedure shall also apply to applications for amendments under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, and in the case of any combination of section 313(a) operations with section 313 (b), (d), or (g) operations, but the supplemental statement in such cases shall be submitted to the Commissioner of Customs except as provided in subparagraph (1) of this paragraph. No drawback shall be allowed on articles exported before the date on which the application was received by the regional commissioner, district director, or port director, unless specifically authorized by the Bureau, or by the regional commissioner in cases within the provisions of § 22.6 or of this paragraph.

* * * * *

(p) When a rate of drawback provides that the drawback allowance shall be determined on the basis of a schedule filed by the manufacturer or producer showing the quantity of imported material used or appearing in each unit of finished articles, and the rate authorizes the filing of supplemental schedules showing changes in the quantity of imported materials used or appearing in

each unit, or different styles or capacities of containers, such supplemental schedules shall be filed with the regional commissioner, district director, or port director of customs. Drawback may be allowed on the articles covered by a supplemental schedule after it has been approved by the regional commissioner.

(q) In cases where the drawback allowance is determined on a quantity-used or appearing-in basis, regional commissioners of customs may request, for the information of liquidating officers in addition to the information required to be filed with the drawback entry, a supplemental advisory schedule showing the quantity of imported merchandise used or appearing in each unit of finished articles. Such schedules shall be filed with the regional commissioner, district director, or port director of customs. Drawback may be allowed on articles covered by a supplemental advisory schedule after it has been approved by the regional commissioner.

In § 22.6 paragraphs (a) and (b) are amended to read:

**§ 22.6 General drawback rates in effect; approval of drawback statements by the Bureau and by regional commissioners.**

(a) *Drawback statements; filing and approval by one regional commissioner.* Each manufacturer or producer of articles covered by a drawback rate in this section, except under paragraph (g–1), shall submit to the regional commissioner where drawback entries will be filed, a statement in triplicate describing the methods used in the manufacture or production of the products involved and setting forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of certificates of manufacture and drawback entries filed hereunder. If the statement shows that the methods and records described therein enable the manufacture or producer to comply with the law and regulations, the regional commissioner shall approve the statement and promptly notify the applicant, in writing, of such action. Statements and supplemental statements in quadruplicate relating to products covered by paragraph (g–1) of this section shall be forwarded to the Bureau for approval.

(b) *Drawback statements; filing and approval at more than one place.* If drawback entries are to be liquidated at more than one regional office, two additional copies of the statement shall be required for each additional office. In such case, the regional commissioner at the place first listed in the drawback statement shall approve the statement, if that action is warranted, and promptly notify the applicant, in writing, of such action.

* * * * *

Section 22.26(c) is amended to read:

(c) The amount of drawback due having been ascertained, such amount shall be certified for payment in accordance with section 22.20(f).

Section 22.43 is amended to read:

**§ 22.43 Verification of drawback claims by Customs Agency Service.**

The first drawback claim filed under a drawback rate shall be forwarded by the regional commissioner to the special agent in charge of the area in which the factory covered by the claim is located, for verification. The agent shall verify the claim and the material set forth in the drawback statement. Similar action shall be taken upon receipt of the first drawback claim filed under an amendment of a drawback rate. Verification as to drawback rates and amendments shall include an examination of not only the manufacturing records but also the sales and financial records relating to the transaction. Schedules, supplemental schedules, and supplemental advisory schedules, when not incorporated in a drawback statement or supplemental statement, shall be referred for verification upon receipt by the regional commissioner. Regional commissioners shall cause drawback documents to be referred to the Customs Agency Service for verification whenever such reference is believed to be required for orderly and efficient administration of the drawback law and regulations, and occasionally in any case.

* * * * *

(Secs. 313, 624, 46 Stat. 693, as amended, 759; 19 U.S.C. 1313, 1624)

[FR Doc.71-7784 Filed 6-3-71;8:50 am]

# Title 20—EMPLOYEES' BENEFITS

## Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Reg. No. 5, further amended]

## PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965——)

### Subpart A—Hospital Insurance Benefits

### Subpart C—Exclusions, Recovery of Overpayment, and Liability of a Certifying Officer

POSTHOSPITAL EXTENDED CARE

On October 28, 1969, there was published in the FEDERAL REGISTER (34 F.R. 17390) a notice of proposed rule making with proposed amendments to Subpart A, Regulations No. 5 which define and describe "skilled nursing services on a continuing basis" for purposes of reimbursement as extended care services under title XVIII of the Social Security Act. All comments submitted with respect to the proposed amendments were considered and the following changes were made as a result of comments received: Paragraphs (a) and (b) of § 405.120 and paragraph (b) of § 405.165 are amended to include references to new §§ 405.126–405.128. The reference to oral drug therapy has been deleted from § 405.127(b) insofar as the administration of nearly every drug involves some degree of risk. The determination as to whether the administration of oral medication in any specific instance is considered a skilled service will be made in accordance with the general principles described in §§ 405.127(c) and 405.128(b). Paragraph (a) of § 405.127 has been revised to indicate specifically that physician direction is a basic requirement in the provision of skilled nursing care. In § 405.128, the phrase "continuous presence of skilled nurses" has been changed to read "continuing availability of skilled nurses" in order to avoid any inference that private-duty nursing is required. Also the term "intravenous injections" in paragraph (a) of that section has been changed to read "intramuscular injections." The definition of "skilled observation," found in paragraph (b) of this section, has been clarified to emphasize the importance of this aspect of skilled nursing care as a basis for an extended care level of services. Several comments have been received requesting that less stringent criteria for extended care coverage be applied to postoperative cataract patients in that they require primarily personal care in a protective environment rather than skilled nursing services on a continuing basis. However, since the law requires as the basis for coverage of extended care services that there be a need for skilled nursing services on a continuing basis, no exception can be made in these cases. A new § 405.129 has been added which sets forth conditions under which an extended care facility may be assured payment for a limited time based on a presumption that the patient required posthospital extended care. Finally, paragraph (g) of § 405.310 has been revised to specify that, with respect to extended care services, no payment may be made for care that does not meet the specifications of §§ 405.126–405.128. Accordingly, the amendments are, with the aforementioned changes and additions, adopted.

(Secs. 1102, 1812–1815, 1871, 49 Stat. 647 as amended, 79 Stat. 291–297; 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.)

*Effective date.* The amendments as set forth below shall be effective upon publication in the FEDERAL REGISTER (6–4–71).

Dated: April 27, 1971.

[SEAL] ROBERT M. BALL,
*Commissioner of Social Security.*

Approved: May 27, 1971.

ELLIOT L. RICHARDSON,
*Secretary of Health, Education, and Welfare.*

1. Section 405.120 is amended by revising paragraph (a)(1) and adding a new paragraph (b)(3) to read as follows:

**§ 405.120 Posthospital extended care services; scope of benefits.**

(a) *Benefits and conditions for entitlement.* (1) An individual who meets the requirements described in § 405.102 and who requires the services referred to in §§ 405.126–405.128, is eligible to have payment made on his behalf to a participating extended care facility (see § 405.150) for up to 100 days of extended care services (§ 405.124) furnished to him in a spell of illness if he is admitted to such extended care facility within 14 days (as defined in paragraph (d) of this section) after his discharge from a hospital in which he was an inpatient for not less than 3 consecutive calendar days (as defined in paragraph (c) of this section) and such discharge occurred on or after the first day of the month in which the individual attained age 65, or after June 30, 1966, whichever is later.

* * * * *

(b) *Services for which payment is not made.* * * *

(3) Where an individual has been furnished services in an extended care facility, no payment may be made for such services if he did not require posthospital extended care as specified in §§ 405.126–405.128, irrespective of whether the other requirements of this section were met.

* * * * *

2. Sections 405.126, 405.127, 405.128, and 405.129 are added to read as follows:

**§ 405.126 Posthospital extended care; defined.**

Posthospital extended care is that level of care provided after a period of intensive hospital care to a patient who continues to require skilled nursing services (as defined in § 405.127) on a continuing basis (see § 405.128) but who no longer requires the constant availability of medical services provided by a hospital.

**§ 405.127 Posthospital extended care; skilled nursing services.**

(a) *Defined.* A skilled nursing service is one which must be furnished by or under direct supervision of licensed nursing personnel and under the general direction of a physician in order to assure the safety of the patient and achieve the medically desired result. Skilled nursing includes:

(1) Observation and assessment of the total needs of the patient;

(2) Planning and management of a treatment plan; and

(3) Rendering direct services to the patient.

(b) *Specific services; services which are skilled.* Based upon the general principles set forth in paragraph (a) of this section skilled nursing services include but are not limited to:

(1) Intravenous or intramuscular injections and intravenous feeding;

(2) Levine tube and gastrostomy feedings;

(3) Naso-pharyngeal aspiration;

(4) Insertion or replacement of catheters;

(5) Application of dressings involving prescription medications and aseptic techniques;

(6) Treatment of extensive decubiti or other widespread skin disorder;

(7) Heat treatments specifically ordered by a physician as part of active treatment and which require observation by skilled personnel to adequately evaluate the patient's progress;

(8) Initial phases of a regimen involving administration of medical gases;

(9) Restorative nursing procedures, including the related teaching and adaptive aspects of skilled nursing, which are part of active treatment and require the presence of licensed nurses at the time of performance.

(c) *Evaluation of services as skilled or unskilled.* In evaluating whether services not enumerated in paragraph (b) of this section are skilled or unskilled nursing services, the following principles shall be applied:

(1) The classification of a particular service as either skilled or unskilled is based on the technical or professional training required to effectivley perform or supervise the service. For example, a patient, following instructions, can normally take a daily vitamin pill. Consequently, the act of giving the vitamin pill to the patient because he is too senile to take it himself would not be a skilled service. Similarly, State law may require that all institutional patients receive medication only from a licensed nurse. This fact would not make administration of a medication a skilled nursing service if such medication can be prescribed for administration at home without the presence of a skilled nurse.

(2) The importance of a particular service to an individual patient does not necessarily make it a skilled service. For example, a primary need of a nonambulatory patient may be frequent changes of position in order to avoid development of decubiti. Since changing of position can ordinarily be accomplished by unlicensed personnel, it would not be a skilled service.

(3) Skilled paramedical services involving specialized training outside the nursing curriculum are not skilled nursing services. For example, physical, occupational, and speech therapy are discrete treatment modalities requiring specialized training for proper performance. A need for one or more of these therapies would not necessarily indicate a need for skilled nursing care.

(4) Any generally nonskilled service could, because of special medical complications, require skilled performance, supervision, or observation. In such cases, the complications and special services involved must be documented by physician orders and/or nursing notes. For example, the existence of a plaster cast on an extrimity would not generally indicate a need for skilled care. However, a preexisting acute skin problem and a need for special traction of the injured extremity might require skilled personnel in order to properly observe for complications and adjust traction accordingly. Such procedures would be undertaken only on specific physician order and would be documented in nursing reports. The possibility of adverse effects from improper performance of an otherwise unskilled service does not make it a skilled service.

(d) *Specific services; supportive or unskilled services.* Supportive services which can be learned and performed by the average nonmedical person (and which are not skilled services in the absence of conditions specified in paragraph (c)(5) of this section) include but are not limited to:

(1) Administration of routine oral medications, eye drops, and ointments;

(2) General maintenance care of colostomy or ileostomy;

(3) Routine services in connection with indwelling bladder catheters;

(4) Changes of dressings in noninfected postoperative or chronic conditions;

(5) Prophylactic and palliative skin care, including bathing and application of creams, or treatment of minor skin problem;

(6) General methods of treating incontinence, including use of diapers and rubber sheets;

(7) General maintenance care in connection with a plaster cast;

(8) Routine care in connection with braces and similar devices;

(9) Use of heat for palliative and comfort purposes;

(10) Administration of medical gases after initial phases of instituting the therapy;

(11) General supervision of exercises which have been taught to the patient;

(12) Assistance in dressing, eating, and going to the toilet.

**§ 405.128 Posthospital extended care; "continuing basis."**

Skilled nursing services are required on a continuing basis (see § 405.126) when the continuing availability of skilled nursing personnel is warranted. In determining whether the continuing availability of skilled nursing personnel is warranted, the following principles apply:

(a) *Frequency of services.* The frequency of skilled nursing services required, rather than their regularity, is the controlling factor in determining whether the continuing availability of skilled nursing personnel is warranted. For example, a patient may require intramuscular injections on a regular basis every second day. If this is the only skilled service required, it would not necessitate the continuing availability of skilled nurses.

(b) *Observation.* Observation may be the principal continuous service when the unstabilized condition of the patient requires the skills of a licensed nurse to detect and evaluate the patient's need for possible modification of treatment or institution of medical procedures. For example, pending stabilization of the condition, a patient suffering from arteriosclerotic heart disease may require

continuous close observation by skilled nurses for signs of decompensation and loss of fluid balance in order to determine whether the digitalis dosage should be changed or other therapeutic measures should be taken. Similarly, in some cases, surgical patients (including cataract patients) are transferred from a hospital to an extended care facility while still in the immediate unstabilized postoperative period during which the possibility of adverse reaction to anesthesia and other aspects of the operative procedure necessitates close skilled monitoring. (This latter situation is, of course, the converse of the "uncomplicated" convalescent stage following the "average" hospital stay for surgery.)

**§ 405.129 Assurance of payment.**

(a) *General.* Whether a patient in an extended care facility required and received posthospital extended care as referred to in §§ 405.126–405.128 will ordinarily be decided from the facts as presented in or in connection with a request for payment made on behalf of an individual who has received care in an extended care facility. However, where such facility has been determined by its intermediary (see § 405.651) to meet the requirements of paragraph (b) of this section, and in an individual case submits adequate medical information to such intermediary in accordance with paragraph (c) of this section, such patient can be presumed to require posthospital extended care as specified in paragraph (d) of this section.

(b) *Eligibility for assurance of payment procedure.* The presumptions referred to in paragraph (a) of this section may be made with respect to patients of an extended care facility when the conditions and circumstances of submission of claims for posthospital extended care services assure that payment is not being requested for care clearly not falling within the scope of §§ 405.126–405.128 and that the facility promptly identifies to the intermediary, in accordance with paragraph (c) of this section, those cases where there is reasonable doubt whether a patient may require or continue to require posthospital extended care (as referred to in §§ 405.126–405.1128). In determining whether such conditions and circumstances exist, the extended care facility's intermediary shall take into account: (1) The adequacy of utilization review in such facility; (2) the facility's effectiveness in applying the definition of posthospital extended care (§§ 405.126–405.128) and limiting its requests for payment for services furnished to patients who required such care; (3) the facility's continuing effectiveness in restricting its requests under this assurance-of-payment procedure to those cases where there is less than certainty but reasonable likelihood that the services a patient may require constitutes such care, as demonstrated by medical information which is forwarded to the intermediary within the time period specified in paragraph (c) of this section; and (4) the adequacy of the medical information the facility submits to the intermediary.

(c) *Request for determination.* The medical information referred to in paragraphs (a) and (b) of this section shall not be deemed adequate unless: (1) It includes physician's orders for the patient's care in the facility, a profile of the patient's condition, and the services expected to be needed; and (2) it has been provided by the extended care facility's director of nursing services, its charge nurse, or a physician; and (3) it is based on either the attending physician's orders or medical information from the hospital from which the patient was transferred.

(d) *Effect of procedure.* Where the medical information is submitted in accordance with the preceding provisions of this section, the intermediary shall review the medical information and inform the extended care facility of its findings as promptly as possible. For a reasonable number of days necessarily intervening between the time medical information is forwarded to the intermediary, or from the date of admission when such information is forwarded within 48 hours of such admission, and whichever of the following events first occurs, the intermediary may presume that such a patient required posthospital extended care: (1) The facility is advised by the intermediary that the care being provided is not posthospital extended care, or that additional supporting evidence is required; or (2) the patient's condition clearly changes from the condition that existed on a date with respect to which the medical information was submitted, so that there is no longer doubt as to the individual's need for posthospital extended care.

3. In § 405.165, the material in paragraph (b) preceding subparagraph (1) is revised to read as follows:

**§ 405.165 Payment for posthospital extended care services; conditions.**

* * * * *

(b) When required, a physician (other than a doctor of podiatry or surgical chiropody) certifies and recertifies (see Subpart P of this part) that such services were required to be given on an inpatient basis because the individual needed skilled nursing care on a continuing basis (as defined in §§ 405.126–405.128):

* * * * *

4. Paragraph (g) of § 405.310 is revised to read as follows:

**§ 405.310 Types of expenses not covered.**

* * * * *

(g) Custodial care (in the case of extended care services, any care which does not meet the definition of extended care in §§ 405.126–405.128);

* * * * *

[FR Doc.71-7753 Filed 6-3-71;8:47 am]

# Title 21—FOOD AND DRUGS

## Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

### SUBCHAPTER C—DRUGS

## PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

### Flumethasone

The Commissioner of Food and Drugs has evaluated a new animal drug application (36–211V) filed by Syntex Laboratories, Inc., 3401 Hillview Drive, Palo Alto, Calif. 94304, proposing the safe and effective use of flumethasone for the treatment of specified conditions in horses. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended by adding the following new section:

**§ 135b.32 Flumethasone suspension veterinary.**

(a) *Chemical name.* 6α,9α-Difluoro-11β,17,21-trihydroxy-16α-methylpregna-1,4-diene-3,20-dione.

(b) *Specifications.* Flumethasone suspension veterinary is sterile and each milliliter of the drug contains: 2 milligrams of flumethasone, 20 milligrams of propylene glycol, 9 milligrams of benzyl alcohol (as preservative), 8 milligrams of sodium chloride, 0.02 millgram of polysorbate-80, 0.1 milligram of citric acid, and water for injection q.s.

(c) *Sponsor.* See code No. 036 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) It is recommended in the various disease states involving synovial structures (joints) of horses where excessive synovial fluid of inflammatory origin is present and where permanent structural changes do not exist. Such conditions include arthritis, carpitis, and osselets.

(2) The drug is administered intra-articularly at a dosage level of 6 to 10 milligrams per injection. The dosage level is dependent upon the size of the involved synovial structure and the degree of severity of the condition under treatment. The dosage is limited to a single injection per week in any one synovial structure.

(3) Clinical and experimental data have demonstrated that corticosteroids administered orally and parenterally to animals during the last trimester of pregnancy may induce the first stage of parturition and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis. The drug is not to be used in horses intended for slaughter for food purposes.

(4) For use only by or on the order of a licensed veterinarian.

*Effective date.* This order shall be effective upon publication in the FEDERAL REGISTER (6–4–71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: May 21, 1971.

C. D. VAN HOUWELING,
*Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.71–7741 Filed 6–3–71;8:46 am]

## Chapter III—Environmental Protection Agency

## PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

### Endothall

A petition (PP 0F0972) was filed by the Pennwalt Corp., Post Office Box 1297, Tacoma, WA 98401, proposing establishment of a tolerance for residues of endothall (7-oxabicyclo-(2.2.1) heptane-2,3-dicarboxylic acid) in or on the raw agricultural commodity cottonseed at 0.1 part per million from use of its mono-*N,N*-dimethylalkylamine salt as a defoliant on cotton, wherein the alkyl group is the same as in the fatty acids of coconut oil.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which the tolerance is being established, and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to this tolerance.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The proposed usage is not reasonably expected to result in residues of the defoliant in meat, milk, poultry, and eggs. The uses are classified under § 420.6 (a)(3).

2. The tolerance established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), Part 420 is amended by adding the following new section to Subpart C:

§ 420.293 **Endothall; tolerances for residues.**

A tolerance of 0.1 part per million is established for negligible residues of the defoliant endothall (7-oxabicyclo-(2.2.1) heptane-2,3-dicarboxylic acid) from use of its mono-*N,N*-dimethylalkylamine salt, wherein the alkyl group is the same as in the fatty acids of coconut oil, in or on the raw agricultural commodity cottonseed.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street, NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

*Effective date.* This order shall become effective on its date of publication in the FEDERAL REGISTER (6–4–71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: May 28, 1971.

LOWELL E. MILLER,
*Acting Deputy Assistant Administrator for Pesticides Programs.*

[FR Doc.71–7774 Filed 6–3–71;8:49 am]

## PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

### *N'*-(4-Chloro-o-Tolyl)-*N,N*-Dimethylformamidine

A petition (PP 0F0980) was filed by Ciba Agrochemical Co., Division of Ciba Corp., Post Office Box 1105, Vero Beach, FL 32960, and Nor-Am Agricultural Products, Inc., 11710 Lake Avenue, Woodstock, IL 60098 in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 346a) proposing establishment of tolerances for residues of the insecticide *N'*-(4-chloro-*o*-tolyl)-*N,N*-dimethylformamidine and its metabolites containing the 4-chloro-*o*-toluidine moiety calculated as *N'*-(4-chloro-*o*-tolyl)-*N,N*-dimethylformamidine in or on the raw agricultural commodities broccoli, brussels sprouts, cabbage, and cauliflower at 2 parts per million.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which tolerances are being established, and the Fish and Wildlife Service of the Department of Interior advised that it has no objection to these tolerances.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The proposed usage is not reasonably expected to result in residues of the insecticide in meat, milk, poultry, and eggs. The uses are classified in the category specified in § 420.6(a)(3).

2. The tolerances established by this order are safe and will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), § 420.285 is amended by adding a new paragraph "2 parts per million * * *" after the paragraph "3 parts per million * * *", as follows:

§ 420.285 *N'*-(4-chloro-*o*-tolyl)-*N,N*-dimethylformamidine; tolerances for residues.

* * * * *

Two parts per million in or on broccoli, brussels sprouts, cabbage, and cauliflower.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

*Effective date.* This order shall become effective on its date of publication in the FEDERAL REGISTER (6–4–71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: May 28, 1971.

LOWELL E. MILLER,
*Acting Deputy Assistant Administrator for Pesticides Programs.*

[FR Doc.71–7775 Filed 6–3–71;8:49 am]

# Title 26—INTERNAL REVENUE

## Chapter I—Internal Revenue Service, Department of the Treasury

### SUBCHAPTER A—INCOME TAX

[T.D. 7120]

## PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

### Special Rules for Determining Tax Credit for Foreign Income Taxes Paid by Controlled Foreign Corporations

On April 20, 1965, a notice of proposed rule making to conform the Income Tax Regulations (26 CFR Part 1) to section 960 of the Internal Revenue

Code of 1954, as added by section 12(a) of the Revenue Act of 1962 (76 Stat. 1006), was published in the FEDERAL REGISTER (30 F.R. 5595). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.960–1, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising the captions of such section and of paragraph (c), by revising paragraphs (a) and (c)(1), by redesignating paragraphs (c)(3) as paragraph (c)(4), by revising examples (1) and (3) in paragraph (c)(4) as so redesignated and adding example (5) thereto, by revising the examples in paragraph (e)(2), by adding paragraph (i), and by reserving paragraph (c)(1)(iii) and (3).

PAR. 2. Section 1.960–2, as set forth in paragraph 1 of the notice of proposed rule making, is changed.

PAR. 3. Section 1.960–3, as set forth in paragraph 1 of the notice of proposed rule making, is changed.

PAR. 4. Section 1.960–4, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising paragraph (a)(2), the caption of paragraph (d), and the introductory statement of facts in examples (1), (3), and (4) in paragraph (f).

PAR. 5. Section 1.960–5, as set forth in paragraph 1 of the appendix to the notice of proposed rule making, is changed.

PAR. 6. Section 1.960–6, as set forth in paragraph 1 of the notice of proposed rule making, is changed by revising the introductory statement of facts in the example in paragraph (b).

PAR. 7. Section 1.78–1, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising paragraph (b) and by adding a new amendment of paragraph (e)(2).

PAR. 8. Section 1.959–4 is amended.

PAR. 9. Section 1.963–3 is amended by revising paragraphs (b)(1) and (e) and example (2) in paragraph (h).

(Sec. 7805 of the Internal Revenue Code of 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] VERNON D. ACREE,
*Commissioner of Internal Revenue.*

Approved: May 25, 1971.

JOHN S. NOLAN,
*Acting Assistant Secretary of the Treasury.*

PARAGRAPH 1. There are inserted immediately after § 1.959–4 the following new section:

**§ 1.960–1 Foreign tax credit with respect to taxes paid on earnings and profits of controlled foreign corporations.**

(a) *Scope of regulations under section 960.* This section prescribes rules for determining the foreign income taxes deemed paid under section 960(a)(1) by a domestic corporation which is required under section 951 to include in gross income an amount attributable to a first-tier or second-tier corporation's earnings and profits. Section 1.960–2 prescribes rules for applying section 902 to dividends paid by a second-tier corporation or a first-tier corporation from earnings and profits attributable to an amount which is, or has been, included in gross income under section 951. Section 1.960–3 provides special rules for the application of the gross-up provisions of section 78 where an amount is included in gross income under section 951. Section 1.960–4 prescribes rules for increasing the applicable foreign tax credit limitation under section 904(a) of the domestic corporation for the taxable year in which it receives a distribution of earnings and profits in respect of which it was required under section 951 to include an amount in its gross income for a prior taxable year. Section 1.960–5 prescribes rules for disallowing a deduction for foreign income taxes for such taxable year of receipt where the domestic corporation received the benefits of the foreign tax credit for such previous taxable year of inclusion. Section 1.960–6 provides that the excess of such an increase in the applicable limitation under section 904(a) over the tax liability of the domestic corporation for such taxable year of receipt results in an overpayment of tax.

(b) *Definitions.* For purposes of section 960 and §§ 1.960–1 through 1.960–6—

(1) *First-tier corporation.* The term "first-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by the domestic corporation described in paragraph (a) of this section.

(2) *Second-tier corporation.* The term "second-tier corporation" means a foreign corporation at least 50 percent of the voting stock of which is owned by such first-tier corporation.

(3) *Foreign income taxes.* The term "foreign income taxes" means income, war profits, and excess profits taxes, and taxes included in the term "income, war profits, and excess profits taxes" by reason of section 903, imposed by a foreign country or a possession of the United States.

(4) *Less developed country corporation.* The term "less developed country corporation" means a less developed country corporation as defined in section 902(d) and § 1.902–4.

(c) *Amount of foreign income taxes deemed paid by domestic corporation in respect of earnings and profits of foreign corporation attributable to amount included in income under section 951*—(1) *In general.* For purposes of section 901—(i) If for the taxable year there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a first-tier corporation for any taxable year, such domestic corporation shall be deemed to have paid the same proportion of the total foreign income taxes paid, accrued, or deemed (in accordance with paragraph (b) of § 1.960–2) to be paid, by such first-tier corporation on or with respect to the earnings and profits of such first-tier corporation for its taxable year as the amount so included in the gross income of the domestic corporation under section 951 with respect to such first-tier corporation bears to the total earnings and profits of such first-tier corporation for its taxable year.

(ii) If for the taxable year there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a second-tier corporation for any taxable year, such domestic corporation shall be deemed to have paid the same proportion of the total foreign income taxes paid or accrued by such second-tier corporation on or with respect to the earnings and profits of such second-tier corporation for its taxable year as the amount (determined without regard to section 958(a)(2)) so included in the gross income of the domestic corporation under section 951 with respect to such second-tier corporation bears to the total earnings and profits of such second-tier corporation.

(iii) [Reserved]

(iv) This subparagraph applies whether or not the first-tier corporation or the second-tier corporation makes a distribution for the taxable year of its earnings and profits which are attributable to the amount included in the gross income of the domestic corporation under section 951.

(v) This subparagraph does not apply to an increase in current earnings invested in United States property which, but for paragraph (e) of § 1.963–3, would be included in the gross income of the domestic corporation under section 951(a)(1)(B) but which, pursuant to such paragraph, counts toward a minimum distribution for the taxable year.

(2) *Taxes paid or accrued on or with respect to earnings and profits of foreign corporation*—(i) *Rule where first-tier corporation is not a less developed country corporation.* For purposes of subparagraph (1) of this paragraph, where the first-tier corporation is not a less developed country corporation for the taxable year or years described in paragraph (e) of this section, the foreign income taxes paid or accrued by such first-tier corporation or its second-tier corporation, as the case may be, on or with respect to its earnings and profits for its taxable year shall be the total amount of the foreign income taxes paid or accrued by such foreign corporation for such taxable year.

(ii) *Rule where first-tier corporation is a less developed country corporation.* For purposes of subparagraph (1) of this paragraph, where the first-tier corporation is a less developed country corporation for the taxable year or years described in paragraph (e) of this section, the foreign income taxes paid or accrued by such first-tier corporation or its second-tier corporation, as the case may be, on or with respect to its earnings and profits for its taxable year shall be the same proportion of the total foreign income taxes paid or accrued by such foreign corporation for such taxable year as the earnings and profits of such corporation for such taxable year bear

to the sum of its earnings and profits and its total foreign income taxes for such year.

(3) [Reserved]

(4) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

*Example (1).* Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation. Both corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income $50 attributable to the earnings and profits of A Corporation for such year, but A Corporation does not distribute any earnings and profits for such year. The foreign income taxes paid by A Corporation for 1965 which are deemed paid by N Corporation for such year under section 960(a)(1)(C) are determined as follows upon the basis of the facts assumed:

| | |
|---|---|
| Pretax earnings and profits of A Corporation | $100.00 |
| Foreign income taxes (20%) | 20.00 |
| Earnings and profits | 80.00 |
| Amount required to be included in N Corporation's gross income under sec. 951 | 50.00 |
| Dividends paid to N Corporation | 0. |
| Foreign income taxes paid on or with respect to earnings and profits of A Corporation | 20.00 |
| Foreign income taxes of A Corporation deemed paid by N Corporation under sec. 960(a)(1)(C) ($50/$80×$20) | 12.50 |

*Example (2).* The facts are the same as in example (1) except that for 1965 A Corporation is a less developed country corporation. The foreign income taxes paid by A Corporation for 1965 which are deemed paid by N Corporation for such year under section 960(a)(1)(D) are determined as follows:

| | |
|---|---|
| Foreign income taxes paid on or with respect to earnings and profits of A Corporation ($80/$100×$20) | $16.00 |
| Foreign income taxes of A Corporation deemed paid by N Corporation under sec. 960(a)(1)(D) ($50/$80×$16) | 10.00 |

*Example (3).* Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income $45 attributable to the earnings and profits of B Corporation for such year, but is not required to include any amount in gross income under section 951 attributable to the earnings and profits of A Corporation for such year. Neither B Corporation nor A Corporation distributes any earnings and profits for 1965. The foreign income taxes paid by B Corporation for 1965 which are deemed paid by N Corporation for such year under section 960(a)(1)(C) are determined as follows upon the basis of the facts assumed:

| | |
|---|---|
| Pretax earnings and profits of B Corporation | $100.00 |
| Foreign income taxes (40%) | 40.00 |
| Earnings and profits | 60.00 |
| Amounts required to be included in N Corporation's gross income under sec. 951 with respect to B Corporation | 45.00 |
| Dividends paid | 0 |
| Foreign income taxes paid on or with respect to earnings and profits of B Corporation | 40.00 |
| Foreign income taxes of B Corporation deemed paid by N Corporation under sec. 960(a)(1)(C) ($45/$60×$40) | 30.00 |

*Example (4).* The facts are the same as in example (3) except that for 1965 A Corporation is a less developed country corporation. The foreign income taxes paid by B Corporation for 1965 which are deemed paid by N Corporation for such year under section 960(a)(1)(D) are determined as follows:

| | |
|---|---|
| Foreign income taxes paid on or with respect to earnings and profits of B Corporation ($60/$100×$40) | $24.00 |
| Foreign income taxes of B Corporation deemed paid by N Corporation under sec. 960(a)(1)(D) ($45/$60×$24) | 18.00 |

*Example (5).* Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns 25 percent of the one class of stock of controlled foreign corporation B, not a less developed country corporation. N Corporation also directly owns 75 percent of the one class of stock of B Corporation. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income $60 attributable to the earnings and profits of B Corporation and $76 attributable to the earnings and profits of A Corporation. For 1965, B Corporation distributes $15 to N Corporation and $5 to A Corporation, but A Corporation makes no distribution to N Corporation. The foreign income taxes paid by corporations A and B which are deemed paid by N Corporation for such year under section 960(a)(1)(C) are determined as follows upon the basis of the facts assumed:

| | |
|---|---|
| *B Corporation (second-tier corporation):* | |
| Pretax earnings and profits | $100.00 |
| Foreign income taxes (40%) | 40.00 |
| Earnings and profits | 60.00 |
| Amount required to be included in N Corporation's gross income under sec. 951 with respect to B Corporation | 60.00 |
| *A Corporation (first-tier corporation):* | |
| Pretax earnings and profits (including $5 dividend from B Corporation) | 100.00 |
| Foreign income taxes (20%) | 20.00 |
| Earnings and profits | 80.00 |
| Amount required to be included in N Corporation's gross income with respect to A Corporation ($95 − [$95×0.20]) | 76.00 |
| *N Corporation (domestic corporation):* | |
| Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1)(C) with respect to— | |
| B Corporation ([$60×0.75]/$60×$40) | 30.00 |
| A Corporation ($76/$80×$20) | 19.00 |
| Total taxes deemed paid under sec. 690(a)(1)(C) | 49.00 |

(d) *Time for stock ownership—(1) First-tier corporation.* The 10-percent stock ownership requirement referred to in paragraph (b)(1) of this section with respect to a first-tier corporation having earnings and profits for its taxable year in respect of which an amount is included under section 951 in the gross income for the taxable year of a domestic corporation must be satisfied on the last day in such taxable year of such first-tier corporation on which such first-tier corporation is a controlled foreign corporation.

(2) *Second-tier corporation.* Both the 10-percent and the 50-percent stock ownership requirements referred to in paragraph (b)(1) and (2) of this section with respect to a second-tier corporation having earnings and profits for its taxable year in respect of which an amount is included under section 951 in the gross income for the taxable year of a domestic corporation must be satisfied on the last day in such taxable year of such second-tier corporation on which such second-tier corporation is a controlled foreign corporation, whether or not the first-tier corporation is a controlled foreign corporation on such day.

(3) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

*Example (1).* Domestic corporation N is required for its taxable year ending June 30, 1964, to include in gross income under section 951 an amount attributable to the earnings and profits of controlled foreign corporation A for 1963 and another amount attributable to the earnings and profits of controlled foreign corporation B for such year. Corporations A and B use the calendar year as the taxable year. Such amounts are required to be included in N Corporation's gross income by reason of its ownership of stock in A Corporation and in turn by A Corporation's ownership of stock in B Corporation. Corporation A is a controlled foreign corporation throughout 1963, but B Corporation is a controlled foreign corporation only from January 1, 1963, through September 30, 1963. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1964, for foreign income taxes paid by A Corporation for 1963, only if N Corporation owns at least 10 percent of the voting stock of A Corporation on December 31, 1963. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1964, for foreign income taxes paid by B Corporation for 1963, only if on September 30, 1963, N Corporation owns at least 10 percent of the voting stock of A Corporation and A Corporation owns at least 50 percent of the voting stock of B Corporation.

*Example (2).* The facts are the same as in example (1) except that A Corporation is a controlled foreign corporation only from January 1, 1963, through March 31, 1963. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1964, for foreign income taxes paid by A Corporation for 1963, only if N Corporation owns at least 10 percent of the voting stock of A Corporation on March 31, 1963. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1964, for foreign income taxes paid by B Corporation for 1963, only if on September 30, 1963, N Corporation owns at least 10 percent of the voting stock of A Corporation and A Corporation owns at least 50 percent of the voting stock of B Corporation.

(e) *Time for less-developed-country qualification—(1) In general.* In order for the less-developed-country rule of paragraph (c) of this section to apply for the taxable year of the domestic corporation, the first-tier corporation must be a less developed country corporation—

(i) For its taxable year ending with or within the taxable year of the domestic

corporation for which such domestic corporation is required to include in gross income under section 951 an amount attributable to the earnings and profits of such year of such first-tier corporation in respect of which the foreign tax credit is claimed by such domestic corporation, and

(ii) For its taxable year in which falls the date, as described in paragraph (d)(2) of this section, on which the 10-percent and 50-percent stock ownership requirements must be satisfied with respect to the taxable year of a second-tier corporation in respect of which the domestic corporation is required to include in gross income under section 951 an amount attributable to the earnings and profits of such year of such second-tier corporation in respect of which the foreign tax credit is claimed by such domestic corporation.

(2) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

*Example (1).* Throughout 1963 domestsic corporation N owns 10 percent of the one class of stock of A Corporation which in turn owns from January 1, 1963, through September 30, 1963, 50 percent of the one class of stock of B Corporation. Corporation A is a controlled foreign corporation throughout 1963, but B Corporation is a controlled foreign corporation only from January 1, 1963, through September 30, 1963. Corporations A and B use the calendar year as the taxable year. Corporation N is required for its taxable year ending June 30, 1964, to include in gross income under section 951 an amount attributable to the earnings and profits of A Corporation for 1963 and another amount attributable to the earnings and profits of B Corporation for such year. The less-developed-country rule of paragraph (c)(2)(ii) of this section applies for N Corporation's taxable year ending June 30, 1964, with respect to the earnings and profits for 1963 of both A Corporation and B Corporation if A Corporation is a less-developed-country corporation for 1963.

*Example (2).* From January 1, 1963, through June 30, 1964, domestic corporation N owns 10 percent of the one class of stock of A Corporation which in turn owns from July 1, 1963, through June 30, 1964, 50 percent of the one class of stock of B Corporation. Corporation A which uses the calendar year as the taxable year, is a controlled foreign corporation throughout 1963 but is not a controlled foreign corporation at any time thereafter. Corporation B is a controlled foreign corporation throughout its taxable year ending June 30, 1964. Corporation N is required for its taxable year ending June 30, 1964, to include in gross income under section 951, an amount attributable to the earnings and profits of A Corporation for 1963 and another amount attributable to the earnings and profits of B Corporation for its taxable year ending June 30, 1964. The less-developed-country rule of paragraph (c)(2)(ii) of this section applies for N Corporation's taxable year ending June 30, 1964, with respect to A Corporation for 1963 and B Corporation's taxable year ending June 30, 1964, if A Corporation is a less-developed-country corporation for both 1963 and 1964.

(f) *Information to be furnished.* If the credit for foreign income taxes claimed under section 901 includes taxes deemed paid under section 960(a)(1), the domestic corporation must furnish the same information with respect to the taxes so deemed paid as it is required to furnish with respect to the taxes actually paid or accrued by it and for which credit is claimed. See § 1.905–2. For other information required to be furnished by the domestic corporation for the annual accounting period of certain foreign corporations ending with or within such corporation's taxable year, see section 6038 and § 1.6038–2.

(g) *Reduction of foreign income taxes paid or deemed paid.* For reduction of the amount of foreign income taxes paid or deemed paid by a foreign corporation for purposes of section 960, see section 6038(b) and the regulations thereunder, relating to failure to furnish information with respect to certain foreign corporations.

(h) *Amounts under section 951 treated as distributions for purposes of applying effective dates.* For purposes of applying section 902 in determining the amount of credit allowed under section 960(a)(1) and paragraph (c) of this section, the effective date provisions of § 1.902–5 shall apply, and for purposes of so applying § 1.902–5, any amount attributable to the earnings and profits for the taxable year of a first-tier corporation which is included in the gross income of a domestic corporation under section 951 shall be treated as a distribution received by such domestic corporation on the last day in such taxable year on which such first-tier corporation is a controlled foreign corporation.

(i) *Source of income and country to which tax is deemed paid*—(1) *Source of income.* For purposes of section 904—

(i) The amount included in gross income of a domestic corporation under section 951 for the taxable year with respect to a first-tier corporation or a second-tier corporation, plus

(ii) Any section 78 dividend to which such section 951 amount gives rise by reason of taxes deemed paid by such domestic corporation under section 960(a)(1)(C),

shall be deemed to be derived from sources within the foreign country or possession of the United States under the laws of which such first-tier corporation, or the first-tier corporation of such second-tier corporation, is created or organized.

(2) *Country to which taxes deemed paid.* For purposes of section 904, the foreign income taxes paid by the first-tier corporation or the second-tier corporation and deemed to be paid by the domestic corporation under section 960(a)(1) by reason of the inclusion of the amount described in subparagraph (1)(i) of this paragraph in the gross income of such domestic corporation shall be deemed to be paid to the foreign country or possession of the United States under the laws of which such first-tier corporation, or the first-tier corporation of such second-tier corporation, is created or organized.

(3) *Illustrations.* The application of this paragraph may be illustrated by the following example:

*Example.* Domestic corporation N owns all the one class of stock of controlled foreign corporation A, incorporated under the laws of foreign country X, which owns all the one class of stock of controlled foreign corportation B, incorporated under the laws of foreign country Y. All such corporations use the calendar year as the taxable year, and A Corporation is not a less developed country corporation for 1965. For 1965, N Corporation is required under section 951 to include in gross income $45 attributable to the earnings and profits of B Corporation for such year and $50 attributable to the earnings and profits of A Corporation for such year. For 1965, because of the inclusion of such amounts in gross income, N Corporation is deemed under section 960(a)(1)(C) and paragraph (c) of this section to have paid $15 of foreign income taxes paid by B Corporation for such year and $10 of foreign income taxes paid by A Corporation for such year. For purposes of section 904, the amount ($95) included in N Corporation's for gross income under section 951 attributable to the earnings and profits of Corporations A and B is deemed to be derived from sources within country X, and the section 78 dividend consisting of the foreign income taxes ($25) deemed paid by N Corporation under section 960(a)(1)(C) with respect to such $95 is deemed to be derived from sources within country X. The $25 of foreign income taxes so deemed paid by N Corporation are deemed to be paid to country X for purposes of section 904.

### § 1.960–2 Interrelation of section 902 and section 960 when dividends are paid by second-tier corporation or by first-tier corporation.

(a) *Scope of this section.* This section prescribes rules for the application of section 902 in a case where dividends are paid by a second-tier corporation or a first-tier corporation, as the case may be, from the earnings and profits for a taxable year when an amount attributable to such earnings and profits is included in the gross income of a domestic corporation under section 951 or when such earnings and profits are attributable to an amount excluded from the gross income of such foreign corporation under section 959(b) and § 1.959–2 with respect to the domestic corporation. In making determinations under this section, any portion of a distribution received from a first-tier corporation by the domestic corporation which is excluded from the domestic corporation's gross income under section 959(a) and § 1.959–1 shall be treated as a dividend for purposes of taking into account under section 902 any foreign income taxes which are not deemed paid by the domestic corporation under section 960(a)(1) and § 1.960–1. For purposes of this section, earnings and profits of a first-tier corporation or a second-tier corporation attributable to an increase in current earnings invested in United States property which, pursuant to paragraph (e) of § 1.963–3, count toward a minimum distribution for the taxable year shall not be treated as being attributable to an amount which is, or has been, included in the gross income of a domestic corporation under section 951.

(b) *Application of section 902(b) to dividends received by first-tier corporation from second-tier corporation.* For

purposes of paragraph (a) of this section and paragraph (c)(1)(i) of § 1.960–1, section 902(b) shall apply to all dividends received by the first-tier corporation for its taxable year from the second-tier corporation other than dividends attributable to earnings and profits of such second-tier corporation in respect of which an amount is, or has been, included in the gross income of a domestic corporation under section 951 with respect to such second-tier corporation.

(c) *Application of section 902(a) to dividends received by domestic corporation from first-tier corporation.*—(1) *In general.* For purposes of paragraph (a) of this section, section 902(a) shall apply to all dividends received by the domestic corporation for its taxable year from the first-tier corporation other than dividends attributable to earnings and profits of such first-tier corporation in respect of which an amount is, or has been, included in the gross income of a domestic corporation under section 951 with respect to such first-tier corporation.

(2) [Reserved]

(d) *Allocation of earnings and profits of first-tier corporation having income excluded under section 959(b).* If the first-tier corporation for its taxable year receives from the second-tier corporation dividends to which, in accordance with paragraph (b) of this section, section 902(b) applies and other dividends to which section 902(b) does not apply, then in applying section 902(a) pursuant to this section, and in applying section 960(a)(1) pursuant to paragraph (c)(1)(i) of § 1.960–1, with respect to the foreign income taxes deemed paid by such first-tier corporation for such taxable year under section 902(b)—

(1) The earnings and profits of the first-tier corporation for such taxable year shall be considered not to include its earnings and profits which are attributable to such other dividends from the second-tier corporation, and

(2) For purposes of so applying section 902(a), distributions to the domestic corporation from such earnings and profits which are attributable to such other dividends from the second-tier corporation shall not be treated as a dividend.

(e) *Illustrations.* The application of this section may be illustrated by the following examples, in all of which it is assumed that the effective rate of foreign income taxes paid or accrued by the first-tier corporation in respect to dividends received from the second-tier corporation is the same as the effective rate of foreign income taxes paid or accrued by the first-tier corporation in respect to its other income:

*Example* (1). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include $50 in gross income attributable to the earnings and profits of A Corporation for such year, but is not required to include any amount in gross income under section 951 attributable to the earnings and profits of B Corporation. For such year, B Corporation distributes a dividend of $45, but A Corporation does not make any distributions. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C), after applying section 902(b)(1) for such year of A Corporation, are determined as follows upon the basis of the facts assumed:

| | | |
|---|---|---|
| B Corporation (second-tier corporation): | | |
| Pretax earnings and profits | | $100.00 |
| Foreign income taxes (40%) | | 40.00 |
| Earnings and profits | | 60.00 |
| Dividends paid to A Corporation | | 45.00 |
| Foreign income taxes paid by B Corporation on or with respect to its accumulated profits | | 40.00 |
| Foreign income taxes of B Corporation deemed paid by A Corporation for 1965 under sec. 902(b)(1) ($45/$60×$40) | | 30.00 |
| A Corporation (first-tier corporation): | | |
| Pretax earnings and profits: | | |
| Dividends from B Corporation | $45.00 | |
| Other income | 100.00 | |
| Total pretax earnings and profits | | 145.00 |
| Foreign income taxes (20%) | | 29.00 |
| Earnings and profits | | 116.00 |
| Foreign income taxes paid, and deemed to be paid, by A Corporation on or with respect to its earnings and profits ($29+$30) | | 59.00 |
| Amount required to be included in N Corporation's gross income under sec. 951 with respect to A Corporation | | 50.00 |
| Dividends paid to N Corporation | | 0 |
| N Corporation (domestic corporation): | | |
| Foreign income taxes of A Corporation deemed paid by N Corporation for 1965 under sec. 960(a)(1)(C) ($50/$116×$59) | | 25.43 |

*Example* (2). The facts are the same as in example (1) except that for 1965 A Corporation is a less developed country corporation. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(D), after applying section 902(b)(2), are $17.76, determined as follows:

| | |
|---|---|
| Foreign income taxes paid by B Corporation on or with respect to its accumulated profits ($60/$100×$40) | $24.00 |
| Foreign income taxes of B Corporation deemed paid by A Corporation for 1965 under sec. 902(b)(2) ($45/$60×$24) | 18.00 |
| Foreign income taxes paid by A Corporation on or with respect to its earnings and profits ($116/$145×$29) | 23.20 |
| Foreign income taxes paid, and deemed to be paid, by A Corporation on or with respect to its earnings and profits ($23.20+$18) | 41.20 |
| Foreign income taxes of A Corporation deemed paid by N Corporation for 1965 under sec. 960(a)(1)(D) ($50/$116×$41.20) | 17.76 |

*Example* (3). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income $150 attributable to the earnings and profits of B Corporation for such year, which B Corporation distributes during such year. Corporation N is not required for 1965 to include any amount in gross income under section 951 attributable to the earnings and profits of A Corporation, but A Corporation distributes for such year $135 from its earnings and profits attributable to B Corporation's dividend. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C), and section 902(a)(1) are determined as follows upon the basis of the facts assumed:

| | | |
|---|---|---|
| B Corporation (second-tier corporation): | | |
| Pretax earnings and profits | | $250.00 |
| Foreign income taxes (20%) | | 50.00 |
| Earnings and profits | | 200.00 |
| Amounts required to be included in N Corporation's gross income under sec. 951 with respect to B Corporation | | 150.00 |
| Foreign income taxes paid on or with respect to earnings and profits of B Corporation | | 50.00 |
| Dividends paid to A Corporation | | 150.00 |
| A Corporation (first-tier corporation): | | |
| Pretax earnings and profits: | | |
| Dividends from B Corporation | $150.00 | |
| Other income | 200.00 | |
| Total pretax earnings and profits | | 350.00 |
| Foreign income taxes (10%) | | 35.00 |
| Earnings and profits | | 315.00 |
| Dividends paid to N Corporation | | 135.00 |
| Foreign income taxes paid by A Corporation on or with respect to its accumulated profits | | 35.00 |
| N Corporation (domestic corporation): | | |
| Foreign income taxes of B Corporation deemed paid by N Corporation for 1965 under sec. 960(a)(1)(C) ($150/$200×$50) | | 37.50 |
| Foreign income taxes of A Corporation deemed paid by N Corporation for 1965 under sec. 902(a)(1) ($135/$315×$35) | | 15.00 |
| Total foreign income taxes deemed paid by N Corporation under sec. 901 | | 52.50 |

*Example* (4). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include $180 in gross income attributable to the earnings and profits of A Corporation for such year, but is not required to include any amount in gross income under section 951 attributable to the earnings and profits of B Corporation. Corporation B distributes from its earnings and profits for 1965 a dividend of $50. For 1965, A Corporation distributes $180 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income for such year with respect to A Corporation and $20 from its other earnings and profits. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C), after applying section 902 for such year, are determined as follows upon the basis of the facts assumed:

| | | |
|---|---|---|
| B Corporation (second-tier corporation): | | |
| Pretax earnings and profits | | $100.00 |
| Foreign income taxes (40%) | | 40.00 |
| Earnings and profits | | 60.00 |
| Dividends paid to A Corporation | | 50.00 |
| Foreign income taxes paid by B Corporation on or with respect to its accumulated profits | | 40.00 |
| Foreign income taxes of B Corporation deemed paid by A Corporation for 1965 under sec. 902(b)(1) ($50/$60×$40) | | 33.33 |
| A Corporation (first-tier corporation): | | |
| Pretax earnings and profits: | | |
| Dividends from B Corporation | $50.00 | |
| Other income | 200.00 | |
| Total pretax earnings and profits | | 250.00 |
| Foreign income taxes (10%) | | 25.00 |
| Earnings and profits | | 225.00 |
| Foreign income taxes paid, and deemed to be paid, by A Corporation on or with respect to its earnings and profits ($25.00+$33.33) | | 58.33 |
| Amounts required to be included in N Corporation's gross income for 1965 under sec. 951 with respect to A Corporation | | 180.00 |
| Dividends paid to N Corporation: | | |
| Dividends to which sec. 902(a) does not apply (from A Corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N Corporation's gross income with respect to A Corporation) | $180.00 | |
| Dividends to which sec. 902(a)(1) applies (from A Corporation's other earnings and profits) | 20.00 | |
| Total dividends paid to N Corporation | | 200.00 |
| N Corporation (domestic corporation): | | |
| Foreign income taxes of corporations A and B deemed paid by N Corporation under sec. 960(a)(1)(C) ($180/$225×$58.33) | | 46.66 |
| Foreign income taxes of corporations A and B deemed paid by N Corporation under sec. 902(a)(1) ($20/$225×$58.33) | | 5.18 |
| Total foreign income taxes deemed paid by N Corporation under sec. 901 | | 51.84 |

*Example* (5). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calen-

dar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income $150 attributable to the earnings and profits of B Corporation for such year and $22.50 attributable to the earnings and profits of A Corporation for such year. For 1965, B Corporation distributes $175, consisting of $150 from its earnings and profits attributable to amounts required under section 951 to be included in N Corporation's gross income with respect to B Corporation and $25 from its other earnings and profits. Corporation A does not distribute any dividends for 1965. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C) are determined as follows upon the basis of the facts assumed:

| | | |
|---|---|---|
| B Corporation (second-tier corporation): | | |
| Pretax earnings and profits | | $250.00 |
| Foreign income taxes (20%) | | 50.00 |
| Earnings and profits | | 200.00 |
| Amounts required to be included in N Corporation's gross income under sec. 951 fo 1965 with respect to B Corporation | | 150.00 |
| Dividends paid by B Corporation: | | |
| Dividends to which sec. 902(b) does not apply (from B Corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N Corporation gross income with respect to B Corporation) | $150.00 | |
| Dividends to which sec. 902(b)(1) applies (from B Corporation's other earnings and profits) | 25.00 | |
| Total dividends paid to A Corporation | | 175.00 |
| Foreign income taxes paid by B Corporation on or with respect to its accumulated profits | | 50.00 |
| Foreign income taxes of B Corporation deemed paid by A Corporation for 1965 under sec. 902(b)(1) ($25/$200×$50) | | 6.25 |
| A Corporation (first-tier corporation): | | |
| Pretax earnings and profits | | 175.00 |
| Foreign income tax (10 percent) | | 17.50 |
| Earnings and profits | | 157.50 |
| Earnings and profits after exclusion of amounts attributable to dividends to which sec. 902(b) does not apply ($157.50 less [$150−($150×0.10)]) | | 22.50 |
| Amount required to be included in N Corporation's gross income for 1965 under sec. 951 with respect to A Corporation | | 22.50 |
| Dividends paid to N Corporation | | 0 |
| N Corporation (domestic corporation): | | |
| Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1)(C) with respect to A Corporation: | | |
| Tax actually paid by A Corporation ($22.50/$157.50×$17.50) | $2.50 | |
| Tax of B Corporation deemed paid by A Corporation under sec. 902(b)(1) ($22.50/$22.50×$6.25) | 6.25 | |
| | | 8.75 |
| Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1)(C) with respect to B Corporation ($150/$200×$50) | | 37.50 |
| Total taxes deemed paid under sec. 960(a)(1)(C) | | 46.25 |

*Example* (6). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income $150 attributable to the earnings and profits of B Corporation for such year and $22.50 attributable to the earnings and profits of A Corporation for such year. For 1965, B Corporation distributes $175, consisting of $150 from its earnings and profits attributable to amounts required under section 951 to be included in N Corporation's gross income with respect to B Corporation and $25 from its other earnings and profits. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C) and section 902(a)(1) are determined as follows upon the basis of the facts assumed:

| | | |
|---|---|---|
| B Corporation (second-tier corporation): | | |
| Pretax earnings and profits | | $250.00 |
| Foreign income taxes (20%) | | 50.00 |
| Earnings and profits | | 200.00 |
| Amounts required to be included in N Corporation's gross income for 1965 under sec. 951 with respect to B Corporation | | 150.00 |
| Dividends paid by B Corporation: | | |
| Dividends to which sec. 902(b)(1) does not apply (from B Corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N Corporation's gross income with respect to B Corporation) | $150.00 | |
| Dividends to which sec. 902(b)(1) applies (from B Corporation's other earnings and profits) | 25.00 | |
| Total dividends paid to A Corporation | | 175.00 |
| Foreign income taxes paid by B Corporation on or with respect to its accumulated profits | | 50.00 |
| Foreign income taxes of B Corporation deemed paid by A Corporation for 1965 under sec. 902(b)(1) ($25/$200×$50) | | 6.25 |
| A Corporation (first-tier corporation): | | |
| Pretax earnings and profits: | | |
| Dividends received from B Corporation | $175.00 | |
| Other income | 100.00 | |
| Total pretax earnings and profits | | 275.00 |
| Foreign income taxes (10 percent) | | 27.50 |
| Earnings and profits | | 247.50 |
| Earnings and profits after exclusion of amounts attributable to dividends to which sec. 902(b) does not apply ($247.50 less [$150−($150×0.10)]) | | 112.50 |
| Amount required to be included in N Corporation's gross income for 1965 under sec. 951 with respect to A Corporation | | 22.50 |
| Distributions paid by A Corporation: | | |
| Dividends to which sec. 902(a) does not apply (From A Corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N Corporation's gross income with respect to A Corporation) | $22.50 | |
| Dividends to which sec. 902(a)(1) applies (from A Corporation's other earnings and profits) | 202.50 | |
| Total dividends paid to N Corporation | 202.50 | |
| N Corporation (domestic corporation): | | |
| Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1)(C) with respect to— | | |
| B Corporation ($150/$200×$50) | | 37.50 |
| A Corporation: | | |
| Tax paid by A Corporation ($22.50/$247.50×$27.50) | $2.50 | |
| Tax of B Corporation deemed paid by A Corporation under sec. 902(b)(1) ($22.50/$112.50×$6.25) | 1.25 | 3.75 |
| Total taxes deemed paid under sec. 960(a)(1)(C) | | 41.25 |
| Foreign income taxes deemed paid by N Corporation under sec. 902(a)(1) with respect to A Corporation: | | |
| Tax paid by A Corporation ($202.50/$247.50×$27.50) | $22.50 | |
| Tax of B Corporation deemed paid by A Corporation ($67.50/$112.50×$6.25) | 3.75 | |
| Total taxes deemed paid under sec. 902(a)(1) | | 26.25 |
| Total foreign income taxes deemed paid by N Corporation under sec. 901 | | 67.50 |

## § 1.960–3 Gross-up of amounts included in income under section 951.

(a) *General rule for including taxes in income.* Any taxes deemed paid by a domestic corporation for the taxable year pursuant to section 960(a)(1)(C) shall, except as provided in paragraph (b) of this section, be included in the gross income of such corporation for such year as a dividend pursuant to section 78 and § 1.78–1. See also paragraph (a)(8) of § 1.902–3.

(b) *Certain taxes not included in income.* Any taxes deemed paid by a domestic corporation for the taxable year pursuant to section 902(a)(1) or section 960(a)(1)(C) shall not be included in the gross income of such corporation for such year as a dividend pursuant to section 78 and § 1.78–1 to the extent that such taxes are paid or accrued by the first-tier corporation or its second-tier corporation, as the case may be, on or with respect to an amount which is excluded from the gross income of such foreign corporation under section 959(b) and § 1.959–2 as distributions from the earnings and profits of another controlled foreign corporation attributable to an amount which is, or has been, required to be included in the gross income of the domestic corporation under section 951.

(c) *Illustrations.* The application of this section may be illustrated by the following examples:

*Example* (1). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, B Corporation, after having paid $20 of foreign income taxes, has $80 in earnings and profits, which are attributable to the amount required to be included in N Corporation's gross income for such year under section 951 with respect to B Corporation and all of which are distributed to A Corporation in such year. The dividend so received from B Corporation is excluded from A Corporation's gross income under section 959(b) and § 1.959–2. An income tax of 10 percent is required to be withheld from such dividend by the foreign country under the laws of which B Corporation is created, and the foreign country under the laws of which A Corporation is created imposes an income tax of $22 on the dividend received from B Corporation. For 1965, A Corporation's earnings and profits are $50 ($80−[0.10×$80]−$22), which it distributes in such year to N Corporation. For 1965, N Corporation is required under section 951 to include $80 in gross income with respect to B Corporation and also is required under the gross-up provisions of section 78 to include in gross income $20 ($80/$80×$20), the amount equal to the foreign income taxes of B Corporation which are deemed paid by N Corporation under section 960(a)(1)(C). Under paragraph (b) of this section N Corporation is not required to include in gross income the $30 ($8+$22) of foreign income taxes which are paid by A Corporation in connection with the dividend received from B Corporation and which are deemed paid by N Corporation under section 902(a)(1) and paragraph (c) of § 1.960–2.

*Example* (2). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B, which in turn owns all the one class of stock of controlled foreign corporation C. All such corporations use the calendar year as the taxable year. For 1965, C Corporation, after having paid $20 of foreign income taxes, has $80 in earnings and profits, which are attributable to the amount required to be included in N Corporation's gross income for such year under section 951 with respect to C Corporation and all of which are distributed to B Corporation in such year. After hav-

ing paid foreign income taxes of $10 on the dividend received from C Corporation, B Corporation distributes the balance of $70 to A Corporation. After having paid foreign income taxes of $5 on the dividend received from B Corporation, A Corporation distributes the balance of $65 to N Corporation. The dividend so received by B Corporation, and in turn by A Corporation, is excluded from the gross income of such corporations under section 959(b) and § 1.959–2. Under paragraph (b) of this section N Corporation is not required to include in gross income the $15 ($10+$5) of foreign income taxes which are paid by corporations B and A, respectively, in connection with the dividend so received and which are deemed paid by N Corporation under section 902(a)(1) and paragraphs (b) and (c) of § 1.960–2.

**§ 1.960–4 Additional foreign tax credit in year of receipt of previously taxed earnings and profits.**

(a) *Increase in section 904(a) limitation for the taxable year of exclusion*—(1) *In general.* The applicable limitation under section 904(a) for a taxpayer's taxable year (hereinafter in this section referred to as the "taxable year of exclusion") in which he receives an amount which is excluded from gross income under section 959(a)(1) and which is attributable to a controlled foreign corporation's earnings and profits in respect of which an amount was required to be included in the gross income of such taxpayer under section 951(a) for a taxable year (hereinafter in this section referred to as the "taxable year of inclusion") previous to the taxable year of exclusion shall be increased under section 960(b)(1) by the amount described in paragraph (b) of this section if the conditions described in subparagraph (2) of this paragraph are satisfied.

(2) *Conditions under which increase in limitation is allowed for the taxable year of exclusion.* The increase in limitation described in subparagraph (1) of this paragraph for the taxable year of exclusion shall be made only if the taxpayer—

(i) For the taxable year of inclusion either chose to claim a foreign tax credit as provided in section 901 or did not pay or accrue any foreign income taxes,

(ii) Chooses to claim a foreign tax credit as provided in section 901 for the taxable year of exclusion, and

(iii) For the taxable year of exclusion pays, accrues, or is deemed to have paid foreign income taxes with respect to the amount, described in subparagraph (1) of this paragraph, which is excluded from his gross income for such year under section 959(a)(1).

(b) *Amount of increase in limitation for the taxable year of exclusion.* The amount of increase under section 960(b)(1) in the applicable limitation under section 904(a) for the taxable year of exclusion shall be—

(1) The amount by which the applicable section 904(a) limitation for the taxable year of inclusion was increased, determined as provided in paragraph (c) of this section, by reason of the inclusion of the amount in the taxpayer's income for such year under section 951(a), reduced by

(2) The amount of foreign income taxes allowed as a credit under section 901 for such taxable year of inclusion and which were allowable to such taxpayer solely by reason of the inclusion of such amount in his gross income under section 951(a), as determined under paragraph (d) of this section, and then by

(3) The additional reduction for such taxable year of inclusion arising by reason of increases in limitation under section 960(b)(1) for taxable years intervening between such taxable year of inclusion and such taxable year of exclusion, as determined under paragraph (e) of this section in respect of such inclusion under section 951(a),

except that the amount of increase determined under this paragraph for the taxable year of exclusion shall in no case exceed the amount of foreign income taxes paid, accrued, or deemed to be paid by such taxpayer for such taxable year of exclusion with respect to the amount, described in paragraph (a)(1) of this section, which is excluded from gross income for such year under section 959(a)(1).

(c) *Determination of increase in limitation for the taxable year of inclusion.* The amount of the increase in the applicable limitation under section 904(a) for the taxable year of inclusion which arises by reason of the inclusion of the amount in gross income under section 951(a) shall be the amount of the applicable limitation under section 904(a) for such year reduced by the amount which would have been the applicable limitation under section 904(a) for such year if the amount had not been included in gross income for such year under section 951(a).

(d) *Determination of foreign income taxes allowed for taxable year of inclusion by reason of section 951(a) amount.* The amount of foreign income taxes allowed as a credit under section 901 for the taxable year of inclusion which were allowable solely by reason of the inclusion of the amount in gross income for such year under section 951(a) shall be the amount of foreign income taxes allowed as a credit under section 901 for such year reduced by the amount of foreign income taxes which would have been allowed as a credit under section 901 for such year if the amount had not been included in gross income for such year under section 951(a). For purposes of this paragraph, the term "foreign income taxes" includes foreign income taxes paid or accrued, and foreign income taxes deemed paid under section 902, section 904(d), and section 960(a), for the taxable year of inclusion.

(e) *Additional reduction for the taxable year of inclusion arising by reason of increases in limitation for intervening years.* The amount of increase in the applicable limitation under section 904(a) for the taxable year of inclusion shall also be reduced, after first deducting the foreign income taxes described in paragraph (b)(2) of this section, by any increases in limitation which arise under section 960(b)(1)—by reason of any earlier exclusions under section 959(a)(1) in respect of the same inclusion under section 951(a) for such taxable year of inclusion—for the first, second, third, fourth, etc., succeeding taxable years of exclusion, in that order, which follow such taxable year of inclusion and precede the taxable year of exclusion in respect of which the increase in limitation under section 960(b)(1) and paragraph (b) of this section is being determined. The amount of any increase in limitation which arises under section 960(b)(1) for any such succeeding taxable year of exclusion shall be the amount of foreign income taxes allowed as a credit under section 901 for each such taxable year reduced by the amount of foreign income taxes which would have been allowed as a credit under section 901 for each such year if the limitation for each such year were not increased under section 960(b)(1). For any such succeeding taxable year of exclusion for which the taxpayer does not choose to claim a foreign tax credit as provided in section 901, the same increase in limitation under section 960(b)(1) shall be treated as having been made, for purposes of this paragraph, which would have been made for such taxable year if the taxpayer had chosen to claim the foreign tax credit for such year.

(f) *Illustrations.* The application of this section may be illustrated by the following examples:

*Example (1).* Domestic corporation N owns all of the one class of stock of controlled foreign corporation A, not a less developed country corporation. Corporation A, after paying foreign income taxes of $30, has earnings and profits for 1965 of $70, all of which are attributable to an amount required under section 951(a) to be included in N Corporation's gross income for 1965. Both corporations use the calendar year as the taxable year. For 1966 and 1967, A Corporation has no earnings and profits attributable to an amount required to be included in N Corporation's gross income under section 951(a); for each such year it makes a distribution of $35 (from its earnings and profits for 1965) from which a foreign income tax of $6 is withheld. For each of 1965, 1966, and 1967, N Corporation derives taxable income of $50 from sources within the United States and claims a foreign tax credit under section 901, determined by applying the overall limitation under section 904(a)(2). The United States tax payable by N Corporation is determined as follows, the surtax exemption under section 11(d) being disregarded for purposes of simplification:

*1965*

| | | |
|---|---|---|
| Taxable income of N Corporation: | | |
| U.S. sources | | $50.00 |
| Sources without the U.S.: | | |
| Amount required to be included in N Corporation's gross income under sec. 951(a) | $70.00 | |
| Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1)(C) and included in N Corporation's gross income under sec. 78 ($30×$70/$70) | 30.00 | 100.00 |
| Total taxable income | | 150.00 |
| U.S. tax payable for 1965: | | |
| U.S. tax before credit ($150×0.48) | | 72.00 |
| Credit: Foreign income taxes of $30, but not to exceed overall limitation of $48 for 1965 ($100/$150×$72) | | 30.00 |
| U.S. tax payable | | 42.00 |

*1966*

| | | |
|---|---|---|
| Taxable income of N Corporation, consisting of income from U.S. sources | | $50.00 |
| U.S. tax before credit ($50×0.48) | | 24.00 |
| Section 904(a)(2) overall limitation for 1966: | | |
| Limitation for 1966 before increase under sec. 960(b)(1) ($24×$0/$50) | | 0 |
| Plus: Increase in overall limitation for 1966 under sec. 960(b)(1): | | |
| Amount by which 1965 overall limitation was increased by reason of inclusion in N Corporation's gross income under sec. 951(a) for 1965 ($48−[($50×0.48)×$0/$50]) | $48.00 | |
| Less: Foreign income taxes allowed as a credit for 1965 which were allowable soely by reason of such sec. 951(a) llnclusion ($30−$0) | 30.00 | |
| Balance | 18.00 | |
| But: Such balance not to exceed foreign income taxes paid by N Corporation for 1966 with respect to $35 distribution excluded under sec. 959(a)(1) ($6 tax withheld) | 6.00 | 6.00 |
| Overall limitation for 1966 | | 6.00 |
| U.S. tax payable for 1966: | | |
| U.S. tax before credit ($50×0.48) | | 24.00 |
| Credit: Foreign income taxes of $6, but not to exceed overall limitation of $6 for 1966 | | 6.00 |
| U.S. tax payable | | 18.00 |

*1967*

| | | |
|---|---|---|
| Taxable income of N Corporation, consisting of income from U.S. sources | | 50.00 |
| U.S. tax before credit ($50×0.48) | | 24.00 |
| Section 904(a)(2) overall limitation for 1967: | | |
| Limitation for 1967 before increase under sec. 960(b)(1)($24×$0/$50) | | 0 |
| Plus: Increase in overall limitation for 1967 under sec. 960(b)(1): | | |
| Amount by which 1965 overall limitation was increased by reason of inclusion in N Corporation's gross income under sec. 951 (a) for 1965 ($48−[($50×0.48)×$0/$50]) | $48.00 | |
| Less: Foreign income taxes allowed as a credit for 1965 which were allowable solely by reason of such sec. 951 (a) inclusion ($30−$0) | 30.00 | |
| Tentative balance | 18.00 | |
| Less: Increase in overall limitation under sec. 960(b)(1) for 1966 by reason of such sec. 951(a) inclusion | 6.00 | |
| Balance | 12.00 | |
| But: Such balance not to exceed foreign income taxes paid by N Corporation for 1967 with respect to $35 distribution excluded under sec. 959(a)(1) ($6 tax withheld) | 6.00 | 6.00 |
| Overall limitation for 1967 | | 6.00 |
| U.S. tax payable for 1967: | | |
| U.S. tax before credit ($50×0.48) | | 24.00 |
| Credit: Foreign income taxes of $6, but not to exceed overall limitation of $6 for 1967 | | 6.00 |
| U.S. tax payable | | 18.00 |

*Example* (2). The facts for 1965, 1966, and 1967, are the same as in example (1), except that in 1964, to which the section 904(a)(2) overall limitation applies, N Corporation pays $18 of foreign income taxes in excess of the overall limitation and that such excess is not absorbed as a carryback to 1962 or 1963 under section 904(d). Therefore, there is no increase under section 960(b)(1) in the overall limitation for 1966 or 1967 since the amount ($48) by which the 1965 overall limitation was increased by reason of the inclusion in N Corporation's gross income for 1965 under section 951(a), less the foreign income taxes ($48) allowed as a credit which were allowable solely by reason of such inclusion, is zero. The foreign income taxes so allowed as a credit for 1965 which were allowable solely by reason of such section 951(a) inclusion consist of the $30 of foreign income taxes deemed paid for 1965 under section 960(a)(1)(C) and the $18 of foreign income taxes for 1964 carried over and deemed paid for 1965 under section 904(d).

*Example* (3). (a) Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which in turn owns all the one class of stock of controlled foreign corporation B. All corporations use the calendar years as the taxable year. Corporation B, after paying foreign income taxes of $30, has earnings and profits for 1965 of $70, all of which is attributable to an amount required under section 951(a) to be included in N Corporation's gross income for 1965, and $35 of which it distributes in such year to A Corporation. For 1965, A Corporation, after paying foreign income taxes of $5 on such dividend from B Corporation, has total earnings and profits of $30, all of which it distributes in such year to N Corporation, a foreign income tax of $3 being withheld therefrom.

(b) For 1966, B Corporation has no earnings and profits, but distributes in such year to A Corporation the $35 remaining of its earnings and profits for 1965. For 1966, A Corporation, after paying foreign income taxes of $5 on such dividend from B Corporation, has total earnings and profits of $30, all of which it distributes to N Corporation, a foreign income tax of $3 being withheld therefrom.

(c) For each of 1965 and 1966, N Corporation has taxable income of $100 from United States sources and claims a foreign tax credit under section 901, determined by applying the overall limitation under section 904(a)(2). The United States tax payable by N Corporation is determined as follows, the surtax exemption under section 11(d) being disregarded for purposes of simplification:

*1965*

| | | |
|---|---|---|
| Taxable income of N Corporation: | | |
| U.S. sources | | $100 |
| Sources without the U.S.: | | |
| Amount required to be included in N Corporation's gross income under sec. 951(a) with respect to B Corporation | $70 | |
| Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1)(C) and included in N Corporation's gross income under sec. 78 ($30×$70/$70) | 30 | 100 |
| Total taxable income | | 200 |
| U.S. tax payable for 1965: | | |
| U.S. tax before credit ($200×0.48) | | 96 |
| Credit: Foreign income taxes of $38 ([$30×$70/$70]+[$5×$30/$30]+$3), but not to exceed overall limitation of $48 ($96×$100/$200) | | 38 |
| U.S. tax payable | | 58 |

*1966*

| | | |
|---|---|---|
| Taxable income of N Corporation, consisting of income from U.S. sources | | 100 |
| U.S. tax before credit ($100×0.48) | | 48 |
| Section 904(a)(2) overall limitation for 1966: | | |
| Limitation for 1966 before increase under sec. 960(b)(1) ($48×$0/$100) | | 0 |
| Plus: Increase in overall limitation for 1966 under sec. 960(b)(1): | | |
| Amount by which 1965 overall limitation was increased by reason of inclusion in N Corporation's gross income under sec. 951(a) for 1965 ($48−[($100×0.48)×$0/$100]) | $48 | |
| Less: Foreign income taxes allowed as a credit for 1965 which were allowable solely by reason of such sec. 951(a) inclusion ($38−$0) | 38 | |
| Balance | 10 | |
| But: Such balance not to exceed foreign income taxes paid and deemed paid by N Corporation for 1966 with respect to $30 distribution excluded under sec. 959(a)(1) ([$5×$30/$30]+$3) | 8 | 8 |
| Overall limitation for 1966 | | 8 |
| U.S. tax payable for 1966: | | |
| U.S. tax before credit ($100×0.48) | | 48 |
| Credit: Foreign income taxes of $8 ($3+$5), but not to exceed overall limitation of $8 for 1966 | | 8 |
| U.S. tax payable | | 40 |

*Example* (4). (a) Domestic corporation N directly owns all of the one class of stock of each of controlled foreign corporations A and B, neither of which is a less developed country corporation. All such corporations use the calendar year as the taxable year. Corporation A, after paying foreign income taxes of $110,000, has earnings and profits for 1965 of $90,000, all of which is attributable to an amount required under section 951(a) to be included in N Corporation's gross income for 1965. For 1966, A Corporation has no earnings and profits but distributes to N Corporation its entire earnings and profits for 1965, from which distribution foreign income taxes of $9,000 are withheld.

(b) For each of 1965 and 1966 B Corporation, after paying foreign income taxes of $2,500, has earnings and profits of $47,500, no part of which is attributable to an amount required under section 951(a) to be included in N Corporation's gross income, and all of which B Corporation distributes to N Corporation in each such year. For 1965 and 1966, N Corporation claims the foreign tax credit under section 901, determined by applying the overall limitation under section 904(a)(2). The United States tax payable by N Corporation is determined as follows, after taking into account the surtax exemption under section 11(d):

*1965*

| | | |
|---|---|---|
| Taxable income of N Corporation: | | |
| Amount required to be included in N Corporation's gross income under sec. 951(a) with respect to A Corporation | $90,000 | |
| Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1)(C) and included in N Corporation's gross income under sec. 78 ($110,000×$90,000/$90,000) | 110,000 | $200,000 |
| Amount included in N Corporation's gross income under sec. 61 as a dividend from B Corporation | 47,500 | |
| Foreign income taxes deemed paid by N Corporation under sec. 902(a)(1) and included in N Corporation's gross income under sec. 78 ($2,500×$47,500/$47,500) | 2,500 | 50,000 |
| Total taxable income | | 250,000 |
| U.S. tax payable for 1965: | | |
| U.S. tax before credit ([$250,000×0.22]+[$225,000×0.26]) | | 113,500 |
| Credit: Foreign income taxes of $112,500 ($110,000+$2,500), but not to exceed overall limitation of $113,500 ($113,500×$250,000/$250,000) | | 112,500 |
| U.S. tax payable | | 1,000 |

*1966*

| | | |
|---|---|---|
| Taxable income of N Corporation: | | |
| Amount included in N Corporation's gross income under sec. 61 as a dividend from B Corporation | | 47,500 |
| Foreign income taxes deemed paid by N Corporation under sec. 902(a)(1) and included in N Corporation's gross income under sec. 78 ($2,500×$47,500/$47,500) | | 2,500 |
| Total taxable income | | 50,000 |
| U.S. tax before credit ([$50,000×0.22]+[$25,000×0.26]) | | 17,500 |
| Section 904(a)(2) overall limitation for 1966: | | |
| Limitation for 1966 before increase under sec. 960(b)(1) ($17,500×$50,000/$50,000) | | 17,500 |
| Plus: Increase in overall limitation for 1966 under sec. 960(b)(1): | | |
| Amount by which 1965 overall limitation was increased by reason of inclusion in N Corporation's gross income under sec. 951(a) for 1965 ($113,500−[$17,500×$50,000/$50,000]) | $96,000 | |
| Less: Foreign income taxes allowed as a credit for 1965 which were allowable solely by reason of such sec. 951(a) inclusion ($112,500−$2,500) | 110,000 | |
| Balance ([$96,000−$110,000], but not to be less than zero) | 0 | |

| | | |
|---|---|---|
| But: Such balance not to exceed foreign income taxes paid by N Corporation for 1966 with respect to $90,000 distribution excluded under sec. 959(a)(1) ($9,000 tax withheld) | 9,000 | 0 |
| Overall limitation for 1966 | | 17,500 |
| U.S. tax payable for 1966: | | |
| U.S. tax before credit ([$50,000×0.22]×[$25,000×0.26]) | | 17,500 |
| Credit: Foreign income taxes of $11,500 ($9,000+$2,500), but not to exceed overall limitation of $17,500 | | 11,500 |
| U.S. tax payable | | 6,000 |

**§ 1.960–5 Credit for taxable year of inclusion binding for taxable year of exclusion.**

(a) *Taxes not allowed as a deduction for taxable year of exclusion.* In the case of any taxpayer who—

(1) Chooses to claim a foreign tax credit as provided in section 901 for the taxable year for which he is required to include in gross income under section 951(a) an amount attributable to the earnings and profits of a controlled foreign corporation, and

(2) Does not choose to claim a foreign tax credit as provided in section 901 for a taxable year in which he receives an amount which is excluded from gross income under section 959(a)(1) and which is attributable to such earnings and profits of such controlled foreign corporation,

no deduction shall be allowed under section 164 for the taxable year of such exclusion for any foreign income taxes paid or accrued on or with respect to such excluded amount.

(b) *Illustration.* The application of this section may be illustrated by the following example:

*Example.* Domestic Corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation. Both corporations use the calendar year as the taxable year. All of A Corporation's earnings and profits of $80 for 1965 (after payment of foreign income taxes of $20 on its total income of $100 for such year) are attributable to amounts required under section 951(a) to be included in N Corporation's gross income for 1965. For 1965, N Corporation chooses to claim a foreign tax credit for the $20 of foreign income taxes which for such year are paid by A Corporation and deemed paid by N Corporation under section 960(a)(1)(C) and paragraph (c)(1) of § 1.960–1. For 1966, A Corporation distributes the entire $80 of 1965 earnings and profits, a foreign income tax of $8 being withheld therefrom. Although N Corporation does not choose to claim a foreign tax credit for 1966, it may not deduct such $8 of foreign income taxes under section 164. Corporation N may, however, deduct under such section a foreign income tax of $4 which is withheld from a distribution of $40 by A Corporation during 1966 from its 1966 earnings and profits.

**§ 1.960–6 Overpayments resulting from increase in limitation for taxable year of exclusion.**

(a) *Amount of overpayment.* If an increase in the limitation under section 960(b)(1) and § 1.960–4 for a taxable year of exclusion exceeds the tax (determined before allowance of any credits against tax) imposed by chapter 1 of the Code for such year, the amount of such excess shall be deemed an overpayment of tax for such year and shall be refunded or credited to the taxpayer in accordance with chapter 65 (section 6401 and following) of the Code.

(b) *Illustration.* The application of this section may be illustrated by the following example:

*Example.* Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation. Both corporations use the calendar year as the taxable year. For 1965, A Corporation has total income of $100,000 on which it pays foreign income taxes of $20,000. All of A Corporation's earnings and profits for 1965 of $80,000 are attributable to an amount which is required under section 951(a) to be included in N Corporation's gross income for 1965. By reason of such income inclusion N Corporation is deemed for 1965 to have paid under section 960(a)(1)(C), and is required under section 78 to include in gross income for such year, the $20,000 ($20,000×$80,000/$80,000) of foreign income taxes paid by A Corporation for such year. Corporation N also derives $100,000 taxable income from sources within the United States for 1965. For 1966, N Corporation has $25,000 of taxable income, all of which is derived from sources within the United States. No part of A Corporation's earnings and profits for 1966 is attributable to an amount required under section 951(a) to be included in N Corporation's gross income. During 1966, A Corporation makes one distribution consisting of its $80,000 earnings and profits for 1965, all of which is excluded under section 959(a)(1) from N Corporation's gross income for 1966, and from which distribution foreign income taxes of $10,000 are withheld. For 1965 and 1966, N Corporation claims the foreign tax credit under section 901, determined by applying the overall limitation under section 904(a)(2). The United States tax of N Corporation is determined as follows for such years:

*1965*

| | | |
|---|---|---|
| Taxable income of N Corporation: | | |
| U.S. sources | | $100,000 |
| Sources without the U.S.: | | |
| Amount required to be included in N Corporation's gross income under sec. 951(a) | $80,000 | |
| Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1)(C) and included in N Corporation's gross income under sec. 78 ($20,000×$80,000/$80,000) | 20,000 | 100,000 |
| Total taxable income | | 200,000 |
| U.S. tax payable for 1965: | | |
| U.S. tax before credit ([$200,000×0.22]+[$175,000×0.26]) | | 89,500 |
| Credit: Foreign income taxes of $20,000, but not to exceed overall limitation of $44,750 ($89,500×$100,000/$200,000) | | 20,000 |
| U.S. tax payable | | 69,500 |

*1966*

| | | |
|---|---|---|
| Taxable income of N Corporation, consisting of income from U.S. sources | | $25,000 |
| U.S. tax before credit ($25,000×0.22) | | 5,500 |
| Section 904(a)(2) overall limitation for 1966: | | |
| Limitation for 1966 before increase under sec. 960(b)(1) ($5,500×$0/$25,000) | | 0 |
| Plus: Increase in overall limitation for 1966 under sec. 960(b)(1): | | |
| Amount by which 1965 overall limitation was increased by reason of inclusion in N Corporation's gross income under sec. 951(a) for 1965 ($44,750−[$41,500×$0/$100,000]) | $44,750 | |
| Less: Foreign income taxes allowed as a credit for 1965 which were allowable solely by reason of such sec. 951(a) inclusion ($20,000−$0) | 20,000 | |
| Balance | 24,750 | |
| But: Such balance not to exceed foreign income taxes paid by N Corporation for 1966 with respect to $80,000 distribution excluded under sec. 959(a)(1) ($10,000 tax withheld) | 10,000 | 10,000 |
| Overall limitation for 1966 | | 10,000 |
| U.S. tax payable for 1966: | | |
| U.S. tax before credit ($25,000×0.22) | | 5,500 |
| Credit: Foreign income taxes of $10,000, but not to exceed overall limitation of $10,000 for 1966 | | 10,000 |
| U.S. tax payable | | None |
| Overpayment of tax for 1966: | | |
| Increase in limitation under sec. 960(b)(1) for 1966 | | 10,000 |
| Less: Tax imposed for 1966 under chapter 1 of the Code | | 5,500 |
| Excess treated as overpayment | | 4,500 |

PAR. 2. Paragraph (b) of § 1.78–1 is amended to read as follows:

**§ 1.78–1 Dividends received from certain foreign corporations by certain domestic corporations choosing the foreign tax credit.**

* * * * *

(b) *Certain taxes not treated as a section 78 dividend.* Foreign income taxes deemed paid by a domestic corporation under section 902(a)(1) or section 960(a)(1)(C) shall not, to the extent provided by paragraph (b) of § 1.960–3, be treated as a section 78 dividend where such taxes are imposed on certain distributions from the earnings and profits of a controlled foreign corporation attributable to an amount which is, or has been, included in gross income under section 951.

* * * * *

(e) *Effective dates for the application of section 78*—(1) *In general.* This section shall apply to amounts of foreign income taxes deemed paid under section 902(a)(1) and paragraph (a)(2) of § 1.902–3, or under section 960(a)(1)(C) and the regulations thereunder, by reason of a distribution received by a domestic corporation—

(i) After December 31, 1964, or

(ii) Before January 1, 1965, in a taxable year of such domestic corporation beginning after December 31, 1962, but only to the extent that such distribution is made out of the accumulated profits of a foreign corporation for a taxable year of such foreign corporation beginning after December 31, 1962.

For special rules relating to determination of accumulated profits for such purposes, see § 1.902–5.

(2) *Amounts under section 951 treated as distributions.* For purposes of this paragraph, any amount attributable to the earnings and profits for the taxable year of a first-tier corporation (as defined in paragraph (b)(1) of § 1.960–1) which is included in the gross income of a domestic corporation under section 951(a) shall be treated as a distribution received by such domestic corporation on the last day in such taxable year on which such first-tier corporation is a controlled foreign corporation.

**§ 1.902–3 Credit for domestic corporate shareholder of a foreign corporation (after amendment by Revenue Act of 1962).**

(a) *Domestic shareholder owning stock in a first-tier corporation.* * * *

(8) *Gross-up of dividends by taxes deemed paid.* Any taxes deemed paid by a domestic shareholder for the taxable year pursuant to section 902(a)(1) and subparagraph (2) of this paragraph

shall, except as provided in paragraph (b) of § 1.960–3, be included in the gross income of such shareholder for such year as a dividend pursuant to section 78 and § 1.78–1.

**§ 1.959–4 Distributions to United States persons not counting as dividends.**

Except as provided in section 960(a)(3) and § 1.960–2, any distribution to a United States person which is excluded from the gross income of such person under section 959(a)(1) and § 1.959–1 shall be treated for purposes of chapter 1 (relating to normal taxes and surtaxes) of subtitle A (relating to income taxes) of the Code as a distribution which is not a dividend. However, see paragraph (b)(1) of § 1.956–1, relating to the dividend limitation on the amount of a controlled foreign corporation's investment of earnings in United States property.

**§ 1.963–3 Distributions counting toward a minimum distribution.**

(a) *Conditions under which earnings and profits are counted toward a minimum distribution*—(1) *In general.* A distribution to the United States shareholder by a single first-tier corporation or by a foreign corporation included in a chain or group shall count toward a minimum distribution for the taxable year of such shareholder to which the election under section 963 relates only to the extent that—

(i) It is received by such shareholder during such year or within 180 days thereafter,

(ii) It is a distribution of the type described in paragraph (b) of this section.

(iii) Under paragraph (c) of this section, it is deemed to be distributed from the earnings and profits of the foreign corporations for the taxable year of such corporation to which the election relates, and

(iv) Such shareholder chooses to include it in gross income for the taxable year of such shareholder to which the election relates notwithstanding that such distribution, by reason of its receipt after the close of such year, would ordinarily be includible in the gross income of a subsequent year.

Amounts taken into account under this subparagraph as gross income of the United States shareholder for the taxable year to which the election relates shall not be considered to be includible in the gross income of such shareholder for a subsequent taxable year. For purposes of determining the foreign tax credit under sections 901 through 905, foreign income tax paid or accrued by such shareholder on or with respect to such amounts shall be treated as paid or accrued during the taxable year of such election.

(2) *Distributions made prior to acquisition of stock.* A United States shareholder which owns within the meaning of section 958(a) stock in a foreign corporation with respect to which such shareholder elects to secure an exclusion under section 963 for the taxable year may count toward the minimum distribution any distribution made with respect to such stock, and before its acquisition by the United States shareholder, to any other domestic corporation not exempt from income tax under chapter 1 of the Code, to the extent that such distribution is made out of the United States shareholder's proportionate share, as determined under paragraph (d)(2) of § 1.963–2, of such corporation's earnings and profits for the taxable year and would have counted toward a minimum distribution if it had been distributed to such United States shareholder. The application of this subparagraph may be illustrated by the following examples:

*Example (1).* Controlled foreign corporation A, which uses the calendar year as the taxable year, has for 1963 $100 of earnings and profits and 100 shares of only one class of stock outstanding. Domestic corporation M, not exempt from income tax under chapter 1 of the Code, directly owns all of such shares during the period from January 1, 1963, through June 30, 1963. On June 30, 1963, M Corporation transfers all of such shares to domestic corporation N, which owns them throughout the remainder of 1963 and elects to secure an exclusion under section 963 for such year with respect to the subpart F income of A Corporation. During June 1963, M Corporation receives a dividend of $75 from A Corporation, which would count toward a minimum distribution if it had been distributed to N Corporation for such year. Corporation N's proportionate share of the earnings and profits of A Corporation for 1963 is $100; N Corporation may count toward a minimum distribution for 1963 the entire dividend of $75 paid to M Corporation.

*Example (2).* The facts are the same as in example (1) except that M is a nonresident alien individual. Since A Corporation is not a controlled foreign corporation from January 1, 1963, through June 30, 1963, N Corporation's proportionate share of the earnings and profits of A Corporation for 1963 is $50.41 ($100 × 184/365), as determined under paragraph (d)(2)(iii) of § 1.963–2. Although $25.41 ($75—$49.59) of the $75 distribution to M is paid from N Corporation's proportionate share of A Corporation's 1963 earnings and profits, N Corporation may not count toward a minimum distribution any part of the $75 dividend distributed to M, since M is not a domestic corporation.

(b) *Qualifying distributions*—(1) *Amounts not counted toward a minimum distribution.* No distribution received by a United States shareholder shall count toward a minimum distribution for the taxable year with respect to such shareholder to the extent the distribution is excludable from gross income to the extent gain on the distribution is not recognized, or to the extent the distribution is treated as a distribution in part or full payment in exchange for stock. Undistributed amounts required to be included in gross income under section 551 as undistributed foreign personal holding company income or under section 951 as undistributed amounts of a controlled foreign corporation shall not count toward a minimum distribution under section 963. An amount received by a United States shareholder as a distribution which under section 302 or section 331 is treated as a distribution in part or full payment in exchange for stock shall not count toward a minimum distribution even though such account is includible in gross income under section 1248 as a dividend. For purposes of this subparagraph, any portion of a distribution of earnings and profits which is attributable to an increase in current earnings, invested in United States property which, but for paragraph (e) of this section, would be included in the gross income of the United States shareholder under section 951(a)(1)(B) shall not be treated as an amount excludable from gross income.

(2) *Inclusion of tax on intercorporate distributions.* In the case of a chain or group election, the United States shareholder's proportionate share of the amount of the foreign income tax paid or accrued for the taxable year by a foreign corporation in the chain or group with respect to distributions received by such corporation from the earnings and profits, of another foreign corporation in such chain or group, for the taxable year of such other corporation to which the election relates shall count toward a minimum distribution from such chain or group for the taxable year, but only if the United States shareholder does not choose under paragraph (d)(1)(iii) of § 1.963–2 to take such tax into account in determining the effective foreign tax rate of such chain or group for the taxable year. To the extent that foreign income tax counts toward a minimum distribution under this subparagraph, it shall be applied against and reduce the amount of the minimum distribution required to be received by the United States shareholder, determined without regard to this paragraph.

(c) *Rules for allocation of distributions to earnings and profits for a taxable year.* To determine whether a distribution to the United States shareholder by a single first-tier corporation or by a foreign corporation in a chain or group is made from the earnings and profits of such corporation for the taxable year to which the election under section 963 relates, the following subparagraphs shall apply:

(1) *Exception to section 316.* Section 316 shall apply except that a distribution of earnings and profits made by a foreign corporation either to another foreign corporation or to the United States shareholder shall be treated as having been paid from the earnings and profits of the distributing corporation for the taxable year of such corporation to which the election relates only if it is made during its distribution period (described in paragraph (g) of this section) for such year.

(2) *Distributions from other corporations.* The earnings and profits of a foreign corporation shall be determined in accordance with paragraph (d)(1) of § 1.963–2 (applied as though the United States shareholder had chosen under subparagraph (1)(iii) of such paragraph to take the tax described therein into account in determining the effective

foreign tax rate) except that, in the case of a chain or group election, a distribution received by a foreign corporation in the chain or group from another foreign corporation in such chain or group shall be taken into account as earnings and profits of the recipient corporation for the taxable year of such recipient corporation to which the election relates but only to the extent that—

(i) The distribution is received by the recipient corporation during the distribution period for the taxable year of such recipient corporation to which the election relates.

(ii) If the distribution had been received by the United States shareholder, it would have constituted a distribution of the type described in paragraph (b) of this section, and

(iii) The distribution is made from the earnings and profits of the distributing corporation for the taxable year of such distributing corporation to which the election relates.

(d) *Year of inclusion in income of foreign corporation and effect upon subpart F income.* To the extent that a distribution to the United States shareholder counting toward a minimum distribution from a chain or group consists of earnings and profits distributed to a foreign corporation in the chain or group after the close of the recipient corporation's taxable year but during its distribution period for such year by another foreign corporation in such chain or group, such amount shall be treated as received by the recipient corporation on the last day of such taxable year and shall not be regarded as foreign personal holding company income (within the meaning of section 553(a) or 954(c)) of such corporation for the taxable year in which such amount is actually received. The extent to which a distribution counting toward a minimum distribution consists of earnings and profits distributed to a foreign corporation in a chain or group shall be determined under the ordering rules of paragraph (b)(3) of § 1.963–4 (applied in each instance as though the United States shareholder had not chosen under paragraph (d)(1)(iii) of § 1.963–2 to take the tax described therein into account in determining the effective foreign tax rate). However, for such purpose, the amount of foreign income tax, if any, which counts toward the minimum distribution shall be determined without regard to paragraph (b)(2) of this section but in accordance with paragraph (b)(3)(iii) of § 1.963–4.

(e) *Distribution of current earnings invested in United States property.* A distribution made by a foreign corporation during its distribution period for a taxable year shall, notwithstanding section 959(c), first be attributed to earnings and profits for such year described in section 959(c)(3) and then to other earnings and profits. For such purposes, earnings and profits of such foreign corporation for such year attributable to amounts which would otherwise be included in gross income of the United States shareholder under section 951(a)(1)(B) for such year shall be treated as earnings and profits to which section 959(c)(3) applies, shall not be excluded from gross income under section 959 (a) or (b), and shall count toward a minimum distribution for such year. See paragraph (c)(1)(v) of § 1.960–1 and paragraph (a) of § 1.960–2.

(f) *Cumulative dividends in arrears.* A distribution in satisfaction of arrearages shall be treated as being made out of earnings and profits of the foreign corporation for the taxable year to which the election under section 963 applies only to the extent the dividend is not attributed, under paragraph (d)(2)(i)(*d*) of § 1.963–2, to the earnings and profits of such corporation remaining from prior taxable years beginning after December 31, 1962. The application of this paragraph may be illustrated by the following example:

*Example.* For 1963, single first-tier corporation A, which uses the calendar year as the taxable year, has earnings and profits of $50; for 1964, a deficit in earnings and profits of $20; for 1965, earnings and profits of $100; and for 1966, earnings and profits of $240. For each of such years preferred dividends accumulate at the rate of $60; but no dividend is paid until 1966 during which year the current dividend is paid and $180 is distributed toward the arrearages. Of this $180, only $50 ($180—$130) shall be treated as paid from 1966 earnings and profits.

(g) *Distribution period of a foreign corporation*—(1) *General distribution period.* Except as provided by subparagraph (2) of this paragraph, the distribution period with respect to a foreign corporation for its taxable year shall begin immediately after the close of the distribution period for the preceding taxable year and shall end with the close of the 60th day of the next succeeding taxable year. If no election to secure an exclusion under section 963 applied to the preceding taxable year, the distribution period for the taxable year shall begin with the 61st day of the taxable year.

(2) *Special extended distribution period.* If the United States shareholder of the foreign corporation so elects in statement filed with its return for the taxable year for which the election to secure the exclusion under section 963 is made, the distribution period with respect to such foreign corporation for its taxable year to which the election to secure the exclusion applies shall end with any day which occurs no earlier than the last day of such taxable year of such foreign corporation and no later than the 180th day after the close of such taxable year. The statement shall designate the day so elected as the end of the distribution period.

(h) *Illustrations.* The application of this section may be illustrated by the following examples:

*Example (1).* For 1963 domestic corporation M makes a chain election with respect to controlled foreign corporation A, all of whose one class of stock M Corporation directly owns, and controlled foreign corporation B, all of whose one class of stock is directly owned by A Corporation. All such corporations use the calendar year as the taxable year, and the distribution periods of corporations A and B for 1963 coincide. Corporations A and B each have earnings and profits (before distributions) of $100 for 1963. On June 1, 1963, B Corporation distributes earnings and profits of $120, of which $100 is from its earnings and profits for 1963 and $20 is from prior earnings. For 1963, A Corporation pays no income tax and distributes earnings and profits of $150 to M Corporation. Under paragraph (c) of this section, such $150 is allocated to A Corporation's earnings and profits of $200 for 1963, consisting of its total earnings and profits for that year of $220 less the $20 received as a distribution from B Corporation's prior earnings.

*Example (2).* Domestic corporation M directly owns all of the one class of stock of controlled foreign corporation A. Both corporations use the calendar year as the taxable year, and A Corporation's taxable year and its distribution period for 1963 coincide. For 1963, $50 is included in the gross income of M Corporation under section 951(a)(1)(B) as A Corporation's increase in earnings invested for such year in United States property. For 1964, M Corporation makes a first-tier election with respect to A Corporation. For 1964, A Corporation has earnings and profits of $100, including $10 attributable to an increase in earnings invested for such year in United States property. During 1964, A Corporation distributes earnings and profits of $80 to M Corporation. Without regard to paragraph (e) of this section, $10 of this distribution is attributable under section 959(c)(1) to A Corporation's 1964 earnings and profits required to be included in M Corporation's gross income under section 951(a)(1)(B). Pursuant to paragraph (e) of this section, however, the entire distribution of $80 counts toward a minimum distribution for 1964 and is considered to be from earnings and profits of A Corporation for 1964 described in section 959(c)(3). Thus, the entire distribution of $80 is included in M Corporation's gross income as a dividend and the foreign tax credit in respect of such amount is determined in accordance with § 1.963–4. On the other hand, if A Corporation made no distributions for 1964, no part of the $10 of A Corporation's increase in earnings invested in United States property for such year would count toward a minimum distribution for any other year but would be included in the gross income for M Corporation for 1964 under section 951(a)(1)(B), and the foreign tax credit in respect of such amount would be determined in accordance with § 1.960–1.

*Example (3).* For 1964 domestic corporation M makes a chain election with respect to controlled foreign corporation A, all the one class of stock of which is owned directly by M Corporation, and controlled foreign corporation B, all the one class of stock of which is owned directly by A Corporation. Corporation M makes no election under section 963 for 1963 or 1965. Corporations M and B use the calendar year as the taxable year, and A Corporation uses for its taxable year a fiscal year ending on September 30. Corporation M elects to have the distribution period for each controlled foreign corporation end on March 29, 1965, such date being the 180th day after the close of A Corporation's taxable year ending on September 30, 1964. Corporation A's distribution period for its taxable year ending on September 30, 1964, begins on November 30, 1963, the 61st day of such taxable year. The distribution period of B Corporation for 1964 begins on March 1, 1964, the 61st day of such taxable year. A distribution count-

ing toward a minimum distribution for 1964 may be made from the earnings and profits of B Corporation only if the amount thereof is distributed by B Corporation to A Corporation, and in turn by A Corporation to M Corporation, during the period of March 1, 1964, through March 29, 1965.

*Example* (4). The facts are the same as in example (3), except that for their taxable years ending in 1964, corporations A and B each have earnings and profits (before distributions) of $100. On March 10, 1965, B Corporation distributes to A Corporation a dividend of $80 upon which A Corporation incurs foreign income tax at the rate of 10 percent. On March 15, 1965, A Corporation distributes to M Corporation a dividend of $50. Corporation M chooses to take into account as gross income for 1964 from such distribution only $40. For purposes of applying this section, the distribution counting toward a minimum distribution is $44.44, consisting of the $40 of earnings and profits actually received by M Corporation plus the $4.44 ($40/$72×$8) of foreign income tax incurred by A Corporation attributable thereto; A Corporation is deemed to have received $44.44 ($40÷0.90) of the distribution from B Corporation on September 30, 1964, the last day of the taxable year of A Corporation to which the election relates; and the foreign personal holding company income derived by A Corporation for its taxable year ending in 1965 from the distribution from B is only $35.56 ($80−$44.44). Assuming that no exceptions, exclusions, or exemptions were applicable, subpart F income would be realized by A Corporation for its taxable year ending on September 30, 1965, upon the distribution by B Corporation to A Corporation, but only in the amount of $32 ($35.56 less a deduction under section 954 (b)(5) for taxes of $3.56).

**§ 1.964–5 Effective date of Subpart F.**

Sections 951 through 964 and §§ 1.951 through 1.964–4 shall apply with respect to taxable years of foreign corporations beginning after December 31, 1962, and to taxable years of United States shareholders within which or with which such taxable years of such corporations end.

[FR Doc.71–7640 Filed 6–3–71;8:45 am]

# Title 28—JUDICIAL ADMINISTRATION

## Chapter I—Department of Justice

[Order No. 457–71]

## PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

### Subpart M—Land and Natural Resources Division

CRIMINAL POLLUTION LITIGATION

Under existing regulations, the Criminal Division has responsibility for prosecuting Federal crimes unless otherwise assigned. (28 CFR 0.55(a)). This order assigns responsibility for criminal pollution litigation to the Land and Natural Resources Division.

By virtue of the authority vested in me by 5 U.S.C. 301, and 28 U.S.C. 509, 510, § 0.65 of Subpart M of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding a new paragraph (d) to read as follows:

**§ 0.65 General functions.**

* * * * *

(d) Criminal suits and matters involving air and water pollution.

Dated: May 22, 1971.

JOHN N. MITCHELL,
*Attorney General.*

[FR Doc.71–7766 Filed 6–3–71;8:48 am]

[Order No. 459–71]

## PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

### Subpart X—Authorizations With Respect to Personnel and Certain Administrative Matters

CERTIFICATION OF OBLIGATIONS

Section 1311(b) of the Supplemental Appropriation Act, 1955 (68 Stat. 831; 31 U.S.C. 200(c)) requires the head of each Federal agency to report to Congress and certain Government officers the amount of each appropriation remaining obligated but unexpended on June 30 each year.

Section 1311(c) of said Act requires each report to be supported by certifications of officials designated by the head of the agency.

By virtue of the authority vested in me by sections 509 and 510 of Title 28 and section 301 of title 5 of the United States Code, § 0.147 of Subpart X of Part 0 of Chapter I of Title 28 of the Code of Federal Regulations, listing such designated officials for the Department of Justice, is amended by deleting the period at the end thereof and inserting the following: "or the Director, Office of Budget and Accounts, Administrative Division."

Dated: May 25, 1971.

JOHN N. MITCHELL,
*Attorney General.*

[FR Doc.71–7749 Filed 6–3–71;8:47 am]

[Order No. 458–71]

## PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

### Consumer Affairs Litigation

This order centralizes responsibility for certain consumer affairs litigation in the Antitrust Division.

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509, 510, Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.41(b) of Subpart H is amended to read as follows:

**§ 0.41 Special functions.**

* * * * *

(b) All civil and criminal litigation arising under the Federal Trade Commission Act, the Federal Food, Drug and Cosmetic Act, the Federal Caustic Poison Act, the Federal Hazardous Substances Act, and the Federal Cigarette Labelling and Advertising Act.

**§ 0.55 [Amended]**

2. Section 0.55(c) is amended by deleting the words "the Federal Food, Drug, and Cosmetic Act."

3. Section 0.55(d) is amended by deleting the following language: "Federal Caustic Poisons Act," and "Federal Trade Commission Act, (in case foods, drugs, or cosmetics are involved)."

4. Paragraph (n) of § 0.55 is deleted.

Dated: May 22, 1971.

JOHN N. MITCHELL,
*Attorney General.*

[FR Doc.71–7767 Filed 6–3–71;8:49 am]

## PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

### Appendix to Subpart Y—Redelegations of Authority To Compromise and Close Civil Claims

TAX DIVISION

[Directive No. 16]

REDELEGATION OF AUTHORITY TO COMPROMISE, SETTLE, AND CLOSE CLAIMS

By virtue of the authority vested in me by Part 0 of Title 28 of the Code of Federal Regulations, particularly §§ 0.70, 0.160, 0.162, 0.164, 0.166, and 0.168, it is ordered as follows:

SECTION 1. The chiefs of the General Litigation Section, the Appellate Section, the Court of Claims Section, and the Refund Trial Sections are authorized to reject offers in compromise, regardless of amount, without reference to the Review Section, provided that such action is not opposed by the agency or agencies involved.

SEC. 2. The Executive Assistant and the Chief of the Litigation Control Unit are authorized to reject offers in compromise in postjudgment collection cases, regardless of amount, without reference to the Review Section: *Provided*, That such action is not opposed by the agency or agencies involved.

SEC. 3. Subject to the conditions and limitations set forth in section (8) hereof, the chiefs of the Court of Claims Section and the Refund Trial Sections are authorized to accept offers in compromise of claims against the United States in cases in which the amount of the refund does not exceed $20,000, provided that such action is not opposed by the agency or agencies involved.

SEC. 4. Subject to the conditions and limitations set forth in section (8) hereof, the chief of the General Litigation Section is authorized to accept offers in compromise of claims in behalf of the United States in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $20,000: *Provided*, That such action is not opposed by the agency or agencies involved.

SEC. 5. Subject to the conditions and limitations set forth in section (8) hereof, the Executive Assistant and the Chief of the Litigation Control Unit are authorized to accept offers in compromise of claims in behalf of the United States in postjudgment collection cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $20,000: *Provided*, That such action is not opposed by the agency or agencies involved.

SEC. 6. Subject to the conditions and limitations set forth in section (8) hereof,

the Chief of the Review Section shall have authority to—

(A) Accept offers in compromise of claims in behalf of the United States in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $50,000, and of claims against the United States in all cases in which the amount of the refund does not exceed $50,000;

(B) Approve administrative settlements not exceeding $50,000;

(C) Close (other than by compromise or by entry of judgment) civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed $50,000; and

(D) Reject offers in compromise, regardless of amount,

*Provided*, That the action is not opposed by the agency or agencies involved or the chief of the section to which the case is assigned.

SEC. 7. Subject to the conditions and limitations set forth in section (8) hereof, the Deputy Assistant Attorneys General and the Deputy for Refund Litigation each shall have authority to—

(A) Accept offers in compromise of claims in behalf of the United States in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $250,000, and of claims against the United States in all cases in which the amount of the refund does not exceed $250,000;

(B) Approve administrative settlements not exceeding $250,000;

(C) Close (other than by compromise or by entry of judgment) civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed $250,000; and

(D) Reject offers in compromise, or disapprove administrative settlements or closings, regardless of amount,

*Provided*, That the limiting amount in (A), (B), and (C) shall be $100,000, if the proposed disposition of the claim is opposed by the agency or agencies involved or if the case is subject to reference to the Joint Committee on Internal Revenue Taxation.

SEC. 8. The authority redelegated herein shall be subject to the following conditions and limitations:

(A) When, for any reason, the compromise or administrative settlement or closing of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims totaling more than the respective amounts designated in sections (2), (3), (4), (5), (6), and (7), the case shall be forwarded for review at the appropriate level.

(B) When, because of the importance of a question of law or policy presented, the position taken by the agency or agencies or by the U.S. attorney involved, or any other considerations, the person otherwise authorized herein to take final action is of the opinion that the proposed disposition should be reviewed at a higher level, he shall forward the case for such review.

(C) Nothing in this directive shall be construed as altering any provision of Subpart Y of Part 0 of Title 28 of the Code of Federal Regulations requiring the submission of certain cases to the Attorney General or the Solicitor General.

(D) Authority to approve recommendations that the Government confess error, or make administrative settlements, in cases on appeal, is excepted from the foregoing redelegations.

(E) The Assistant Attorney General, at any time, may withdraw any authority delegated by this directive as it relates to any particular case or category of cases, or to any part thereof.

SEC. 9. This Directive supersedes Tax Division Directive No. 14 of March 3, 1970.

SEC. 10. This Directive shall become effective on the date of its publication in the FEDERAL REGISTER.

JOHNNIE M. WALTERS,
*Assistant Attorney General.*

Approved: May 22, 1971.

JOHN N. MITCHELL,
*Attorney General.*

[FR Doc.71-7768 Filed 6-3-71;8:49 am]

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[Order No. 456-71]

## PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

### Subpart R—Bureau of Narcotics and Dangerous Drugs

DELEGATING AUTHORITY TO RELEASE CERTAIN INFORMATION RELATING TO CONTROLLED SUBSTANCES

Department of Justice regulations require the approval of the Attorney General prior to disclosing, in response to subpena or demand of a court or other authority, information or material from Department files or information or material acquired as part of the performance of the employees official duties (28 CFR 16.11–16.14). Disclosure of information from investigative reports also can be made only upon authorization of the Attorney General. This order removes the requirement of obtaining prior approval of the Attorney General for disclosure of certain information relating to controlled substances on the part of officials of the Bureau of Narcotics and Dangerous Drugs by delegating this authority to the Director of BNDD. The purpose of this order is to facilitate cooperation with Federal, State, and local officials concerned with traffic in controlled substances and in suppressing abuse of controlled substances.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, and section 501 of the Controlled Substances Act (84 Stat. 1270, 21 U.S.C. 871), Subpart R of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding the following new § 0.102:

**§ 0.102 Release of Information.**

(a) The Director of the Bureau of Narcotics and Dangerous Drugs is authorized

(1) To release information obtained by BNDD and BNDD investigative reports to Federal, State, and local officials engaged in the enforcement of laws related to controlled substances.

(2) To release information obtained by BNDD and BNDD investigative reports to Federal, State, and local prosecutors, and State licensing boards, engaged in the institution and prosecution of cases before courts and licensing boards related to controlled substances.

(3) To authorize the testimony of BNDD officials in response to subpoenas issued by the prosecution in Federal, State, or local criminal cases involving controlled substances.

(b) Except as provided in paragraph (a) of this section, all other production of information or testimony of BNDD officials in response to subpoenas or demands of courts or other authorities is governed by Subpart B of Part 16 of this Title. However, it should be recognized that Subpart B is not intended to restrict the release of noninvestigative information and reports as deemed appropriate by the Director of BNDD. For example, it does not inhibit the exchange of information between governmental officials concerning the use and abuse of controlled substances as provided for by section 503(a)(1) of the Controlled Substances Act (21 U.S.C. 873(a)(1)).

Dated: May 22, 1971.

JOHN N. MITCHELL,
*Attorney General.*

[FR Doc.71-7765 Filed 6-3-71;8:48 am]

# Title 29—LABOR

## Subtitle A—Office of the Secretary of Labor

## PART 7—PRACTICE BEFORE THE WAGE APPEALS BOARD

Pursuant to Secretary of Labor's Orders Nos. 24–70 (36 F.R. 306) and 13–71 (36 F.R. 8755) and the statutory authority cited in this document, Part 7 of Title 29, Code of Federal Regulations, is hereby revised in the manner indicated below.

The revision reflects the power conferred upon the Board by the aforementioned Order to hear appeals upon the vote of one member, and also codifies procedural practices and policies which have developed in the course of the Wage Appeals Board's experience in reviewing Davis-Bacon wage determination cases and other cases within its jurisdiction; e.g., the Wage Appeals Board under no circumstances will request any procurement agency to postpone any contract action because of the filing of a petition to the Board (this is a matter which must be resolved between the petitioner and the procurement agency); the Wage Appeals Board regards itself as essentially an appellate agency, and it will not hear matters de novo except upon a showing of extraordinary circumstances; some matters of service are clarified; express provisions dealing with motions and extensions of time are added, etc.

The revision shall be effective upon publication in the FEDERAL REGISTER (6–3–71).

Part 7 of Title 29, Code of Federal Regulations, is revised to read as follows:

Subpart A—Purpose and Scope



Subpart B—Review of Wage Determinations

Sec.
7.7 Presentations of other interested persons.
7.8 Disposition by the Wage Appeals Board.

Subpart C—Review of Other Proceedings and Related Matters

7.9 Review of decisions in other proceedings.

Subpart D—Some General Procedural Matters

7.11 Right to counsel.
7.12 Intervention, other participation.
7.13 Consolidations.
7.14 Oral proceedings.
7.15 Public information.
7.16 Filing and service.
7.17 Variations in procedures.
7.18 Motions; extensions of time.

AUTHORITY: The provisions of this Part 7 issued under Reorg. Plan No. 14 of 1950, 64 Stat. 1267; 5 U.S.C. 301, 3 CFR, 1949–1953 Comp., p. 1007; sec. 2, 48 Stat. 948 as amended; 40 U.S.C. 276c; secs. 104, 105, 76 Stat. 358, 359; 40 U.S.C. 330, 331; 65 Stat. 290; 36 F.R. 306, 8755.

## Subpart A—Purpose and Scope

### § 7.1 Purpose and scope.

(a) This part contains the rules of practice of the Wage Appeals Board (hereinafter referred to as the Board).

(b) The Board has jurisdiction to hear and decide in its discretion appeals concerning questions of law and fact from final decisions under Parts 1, 3, and 5 of this subtitle including decisions as to the following: (1) Wage determinations issued under the Davis-Bacon Act and its related minimum wage statutes; (2) debarment cases arising under Part 5 of this subtitle; (3) controversies concerning the payment of prevailing wage rates or proper classifications which involve significant sums of money, large groups of employees, or novel or unusual situations; and (4) recommendations of a Federal agency for appropriate adjustment of liquidated damages which are assessed under the Contract Work Hours and Safety Standards Act.

(c) In exercising its discretion to hear and decide appeals, the Board shall consider, among other things, timeliness, the nature of the relief sought, matters of undue hardship or injustice, or the public interest.

(d) In considering the matters within the scope of its jurisdiction the Board shall act as the authorized representative of the Secretary of Labor. The Board shall act as fully and finally as might the Secretary of Labor concerning such matters.

(e) The Board is an essentially appellate agency. It will not hear matters de novo except upon a showing of extraordinary circumstances. It may remand under appropriate instructions any case for the taking of additional evidence and the making of new or modified findings by reason of the additional evidence.

## Subpart B—Review of Wage Determinations

### § 7.2 Who may file petitions for review.

(a) Any interested person who is seeking a modification or other change in a wage determination under Part 1 of this subtitle and who has requested the administrative officer authorized to make such modification or other change under Part 1 and the request has been denied, after appropriate reconsideration shall have a right to petition for review of the action taken by that officer.

(b) For purpose of this section, the term "interested person" is considered to include, without limitation:

(1) Any contractor, or an association representing a contractor, who is likely to seek or to work under a contract containing a particular wage determination, or any laborer or mechanic, or any labor organization which represents a laborer or mechanic, who is likely to be employed or to seek employment under a contract containing a particular wage determination, and (2) any Federal, State, or local agency concerned with the administration of a proposed contract or a contract containing a particular wage determination issued pursuant to the Davis-Bacon Act or any of its related statutes.

### § 7.3 Where to file.

The petition (original and four copies) accompanied by a statement of service shall be filed with the Wage Appeals Board, U.S. Department of Labor, Washington, D.C. 20210. In addition, copies of the petition shall be served upon each of the following: (a) The Federal, State, or local agency, or agencies involved; (b) the officer issuing the wage determination; and (c) any other person (or the authorized representatives of such persons) known, or reasonably expected, to be interested in the subject matter of the petition.

### § 7.4 When to file.

(a) Requests for review of wage determinations must be timely made. Timeliness is dependent upon the pertinent facts and circumstances involved, including without limitation the contract schedule of the administering agency, the nature of the work involved, and its location.

(b) The Board shall under no circumstances request any administering agency to postpone any contract action because of the filing of a petition. This is a matter which must be resolved directly with the administering agency by the petitioner or other interested person.

### § 7.5 Contents of petitions.

(a) A petition for the review of a wage determination shall: (1) Be in writing and signed by the petitioner or his counsel (or other authorized representative); (2) be described as a petition for review by the Wage Appeals Board; (3) identify clearly the wage determination, location of the project or projects in question, and the agency concerned; (4) state that the petitioner has requested reconsideration of the wage determination in question and describe briefly the action taken in response to the request; (5) contain a short and plain statement of the grounds for review; and (6) be accompanied by supporting data, views, or arguments.

(b) A petition shall indicate whether or not the petitioner consents to the disposition of the questions involved by a single member of the Board.

### § 7.6 Filing of wage determination record.

(a) In representing the officer issuing the wage determination the Solicitor shall, among other things, file promptly with the Board a record supporting his findings and conclusions, after receipt of service of the petition.

(b) In representing the officer issuing the wage determination the Solicitor shall file with the Board a statement of the position of the officer issuing the wage determination concerning any findings challenged in the petition; and shall make service on the petitioner and any other interested persons.

### § 7.7 Presentations of other interested persons.

Interested persons other than the petitioner shall have a reasonable opportunity as specified by the Board in particular cases to submit to the Board written data, views, or arguments relating to the petition. Such matter (original and four copies) should be filed with the Wage Appeals Board, U.S. Department of Labor, Washington, D.C. 20210. Copies of any such matter shall be served on the petitioner and other interested persons.

### § 7.8 Disposition by the Wage Appeals Board.

(a) The Board may decline review of any case whenever in its judgment a review would be inappropriate or because of lack of timeliness, the nature of the relief sought, or other reasons.

(b) The Board shall decide the case upon the basis of all relevant matter contained in the entire record before it. The Board shall notify interested persons participating in the proceeding of its decision.

(c) Decisions of the Board shall be by majority vote. A case will be reviewed upon the affirmative vote of one member.

## Subpart C—Review of Other Proceedings and Related Matters

### § 7.9 Review of decisions in other proceedings.

(a) Any party or aggrieved person shall have a right to file a petition for review with the Board (original and four copies), within a reasonable time from any final decision in any agency action under Part 1, 3, or 5 of this subtitle.

(b) The petition shall state concisely the points relied upon, and shall be accompanied by a statement setting forth supporting reasons. Further, the petition shall indicate whether or not the petitioner consents to the disposition of the questions involved by a single member.

(c) A copy of the presentation shall be served upon the officer who issued the decision, and upon any other party or known interested person, as the case may be. In representing the officer who issued the final decision in any agency action under Parts 1, 3, or 5 of the subtitle, the Solicitor shall, among other things, file promptly with the Board a record supporting the officer's decision, including any findings upon which the decision is based, after receipt of service of the petition.

(d) In representing the officer issuing a final decision in any agency action under Parts 1, 3, and 5 of this subtitle, the Solicitor shall file with the Board a statement of the position of the officer who issued the final decision at issue, concerning the decision challenged; and shall make service on the petitioner and any other interested persons.

(e) The Board shall afford any other parties or known interested persons a reasonable opportunity to respond to the petition. Copies of any such response shall be served upon the officer issuing the decision below and upon the petitioner.

(f) The Board shall pass upon the points raised in the petition upon the basis of the entire record before it, and shall notify the parties to the proceeding of its decision. In any remand of a case as provided in § 7.1(e), the Board shall include any appropriate instructions.

### Subpart D—Some General Procedural Matters

**§ 7.11 Right to counsel.**

Each interested person or party shall have the right to appear in person or by or with counsel or other qualified representative in any proceeding before the Board.

**§ 7.12 Intervention; other participation.**

For good cause shown, the Board may permit any interested person or party to intervene or otherwise participate in any proceeding held by the Board. Except when requested orally before the Board, a petition to intervene or otherwise participate shall be in writing (original and four copies) and shall state with precision and particularity: (a) The petitioner's relationship to the matters involved in the proceedings, and (b) the nature of the presentation which he would make. Copies of the petition shall be served to all parties or interested persons known to participate in the proceeding, who may respond to the petition. Appropriate service shall be made of any response.

**§ 7.13 Consolidations.**

Upon its own initiative or upon motion of any interested person or party, the Board may consolidate in any proceeding or concurrently consider two or more appeals which involve substantially the same persons or parties, or issues which are the same or closely related, if it finds that such consolidation or concurrent review will contribute to a proper dispatch of its business and to the ends of justice, and it will not unduly delay consideration of any such appeals.

**§ 7.14 Oral proceedings.**

(a) With respect to any proceeding before it, the Board may upon its own initiative or upon request of any interested person or party direct the interested persons or parties to appear before the Board or its designee at a specified time and place in order to simplify the issues presented or to take up any other matters which may tend to expedite or facilitate the disposition of the proceeding.

(b) In its discretion, the Board, or a single presiding member, may permit oral argument in any proceeding. The Board or the presiding member, shall prescribe the time and place for argument and the time allotted for argument. A petitioner wishing to make oral argument should make the request therefor in his petition.

**§ 7.15 Public information.**

(a) Subject to the provisions of §§ 1.15, 5.6, and Part 70 of this subtitle, all papers and documents made a part of the official record in the proceedings of the Board and decisions of the Board shall be made available for public inspection during usual business hours at the office of the Wage Appeals Board, U.S. Department of Labor, Washington, D.C. 20210.

(b) Facsimile copies of such papers, documents and decisions shall be furnished upon request. There shall be a charge of 25 cents for each facsimile page reproduction except for copies of materials duplicated for distribution for no charge as provided in paragraph (c). Postal fees in excess of domestic first class postal rates as are necessary for transmittal of copies will be added to the per-page fee specified unless stamps or stamped envelopes are furnished with the request.

(c) No-charge need to be made for furnishing: (1) Unauthenticated copies of any rules, regulations, or decisions of general import, (2) copies to agencies which will aid in the administration of the Davis-Bacon and related acts, (3) copies to contractor associations and labor organizations for general dissemination of the information contained therein, and (4) only occasionally unauthenticated copies of papers and documents.

**§ 7.16 Filing and service.**

(a) *Filing.* All papers submitted to the Board under this part shall be filed with the Executive Secretary of the Wage Appeals Board, U.S. Department of Labor, Washington, D.C. 20210.

(b) *Number of copies.* An original and four copies of all papers shall be submitted.

(c) *Manner of service.* Service under this part shall be by the filing party or interested person, service may be personal or may be by mail. Service by mail is complete on mailing.

(d) *Proof of service.* Papers filed with the Board shall contain an acknowledgement of service by the person served or proof of service in the form of a statement of the date and the manner of service and the names of the person or persons served, certified by the person who made service.

**§ 7.17 Variations in procedures.**

Upon reasonable notice to the parties or interested persons, the Board may vary the procedures specified in this part in particular cases.

**§ 7.18 Motions; extensions of time.**

(a) Except as otherwise provided in this part, any application for an order or other relief shall be made by motion for such order or relief. Except when made orally before the Board, motions shall be in writing and shall be accompanied by proof of service on all other parties or interested persons. If a motion is supported by briefs, affidavits, or other papers, they shall be served and filed with the motion. Any party or interested person, as the case may be, may respond to the motion within such time as may be provided by the Board.

(b) Requests for extensions of time in any proceeding as to the filing of papers or oral presentations shall be in the form of a motion under paragraph (a) of this section.

Signed at Washintgon, D.C., this 5th day of May 1971.

OSCAR S. SMITH,
*Chairman.*

CLARENCE BARKER,
*Member.*

STUART ROTHMAN,
*Member.*

[FR Doc.71-7752 Filed 6-3-71;8:47 am]

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## PART 50—NEIGHBORHOOD YOUTH CORPS PROJECTS

## PART 51—WORK TRAINING AND EXPERIENCE PROGRAMS

### Limitations on Federal Assistance

Pursuant to authority contained in section 602 of the Economic Opportunity Act of 1964, as amended (78 Stat. 528, 79 Stat. 973, 80 Stat. 1451, 81 Stat. 672, 83 Stat. 827, 42 U.S.C. 2701 et seq.), the delegation of authorities to the Secretary of Labor by the Director of the Office of Economic Opportunity, 33 F.R. 15139 and Secretary's Order No. 7-71, Part 50 of Subtitle A of Title 29 of the Code of Federal Regulations is hereby amended and Part 51 is hereby revised in the manner set forth below. The purpose is to bring Part 51 into conformity with current provisions of the Act and to bring Part 50 into conformity with the Part 51 revision.

The provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 553) requiring notice and public procedure are not applicable since these regulations involve only matters that relate to public benefits. Further, I do not believe that such procedure would serve a useful purpose here. The amendments shall become

effective 30 days after publication in the FEDERAL REGISTER.

Part 50 is amended as follows:

§ 50.32 [Revoked]

Section 50.32 and its table of sections reference are revoked.

Part 51 is revised to read as follows:

Sec.
51.1 Purpose.
51.2 Limitations on Federal assistance.

AUTHORITY: The provisions of this Part 51 issued under 78 Stat. 528; 42 U.S.C. 2942.

§ 51.1 Purpose.

This part sets forth basic policy of the Secretary of Labor in the award of grants, agreements, and contracts for programs under Title I, Part B and Part E of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2701 et seq.).

§ 51.2 Limitations on Federal assistance.

Any program or activity subject to the 90 percentum limitation on Federal financial assistance required by section 131 of the Economic Opportunity Act of 1964, as amended, shall be undertaken in a manner to assure non-Federal contribution in cash or in kind of at least 10 percentum of the cost of the program or activity. This requirement may be waived to the extent it can be shown that:

(a) The project is sponsored by an Indian tribe whose public facilities (including, but not limited to, schools, hospitals, parks, and other recreational facilities) are owned by the Federal Government or receive more than 75 percentum of revenues from the Federal Government; or

(b) The agreement for operation of the project provides that enrollees will participate only on work which is necessary to cope with the effects of a major disaster, as defined in section 102 of the Disaster Relief Act of 1970 (84 Stat. 1745, Public Law 91-606); or

(c) Enrollees will participate only on work or training sites owned by or subject to the control of Federal, State, or local governmental agencies; or

(d) Enrollees will participate only on work or training sites within sections of concentrated unemployment or underemployment, or areas of substantial unemployment, or persistent unemployment, as classified by the Secretary of Labor pursuant to Part 8 of this subtitle; or

(e) Special circumstances exist, such as the nature of the program or activity, or needs of the community, bearing on the inability to fully contribute the required non-Federal share. The basis for such special circumstances, the amount of non-Federal share which can be provided, and the extent reasonable efforts have been made to raise a larger non-Federal share, shall be submitted to the Secretary of Labor or his duly authorized representative for his prior determination.

(78 Stat. 528; 42 U.S.C. 2942)

Signed at Washington, D.C., this 28th day of May 1971.

MALCOLM R. LOVELL, Jr.,
*Assistant Secretary for Manpower.*

[FR Doc.71-7751 Filed 6-3-71;8:47 am]

# Title 29—LABOR

## Chapter V—Wage and Hour Division, Department of Labor

## PART 603—GLOVES AND MITTENS INDUSTRY IN PUERTO RICO

## PART 612—NEEDLEWORK AND FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

### Wage Order

Pursuant to sections 5 and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 208) and Reorganization Plan No. 6 of 1950 (3 CFR, 1949-53 Comp., p. 1004) and by means of Administrative Order No. 614 (35 F.R. 15226), the Secretary of Labor appointed and convened Industry Committee No. 100-A for the Gloves and Mittens Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it. The recommendations of Committee 100-A relate to all the classifications under pre-1961 coverage and to the fabric and leather gloves classification under 1961 and 1966 coverage within the purview of 29 CFR Part 603.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 100-A are hereby published, to be effective June 20, 1971, in this order revising Parts 603 and 612 of Title 29, Code of Federal Regulations. For a more systematic alignment of the gloves and mittens industry in Puerto Rico, the knit gloves classification, currently included in Part 612 of this title, is transferred to and incorporated into Part 603.

Parts 603 and 612 of Title 29, Code of Federal Regulations are hereby revised as set out below.

1. As revised, Part 603 reads as follows:

Sec.
603.1 Definition.
603.2 Wage rates.
603.3 Notices.

AUTHORITY: The provisions of this Part 603 issued under secs. 5, 6, 8, 52 Stat. 1062, 1064; 29 U.S.C. 205, 206, 208.

§ 603.1 Definition.

The gloves and mittens industry in Puerto Rico is defined as: The manufacture from any material of gloves and mittens made by knitting, crocheting, cutting, sewing, embroidering, or other processes: *Provided, however,* That the industry shall not include the manufacture of sport and athletic gloves and mitts, or the manufacture of rubber or molded plastic gloves and mittens.

§ 603.2 Wage rates.

Wages at rates not less than those prescribed in this section shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees in each of the classifications in the gloves and mittens industry in Puerto Rico who in any workweek is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce as those terms are defined in section 3 of the Act.

(a) *Pre-1961 coverage classifications.* The classifications in this paragraph (a) apply to all activities in the gloves and mittens industry in Puerto Rico to which section 6 of the Fair Labor Standards Act would have applied prior to the Fair Labor Standards Amendments of 1961.

(1) *Hand-sewing on fabric gloves classification.* (i) The minimum wage for this classification is 47 cents an hour.

(ii) This classification is defined as the operations of hand-sewing, hand-embroidering, hand-embellishing, ornamental hand-stitching, hand-drawing of threads, and similar hand operations involving decorative effects on fabric gloves (gloves or mittens manufactured from woven or knitted fabric), except mending, repairing, sewing of labels, tacking, and similar operations on fabric gloves that are wholly or chiefly machine-sewn.

(2) *Hand-sewing on leather gloves classification.* (i) The minimum wage for this classification is 76 cents an hour.

(ii) This classification is defined as the operations of hand-sewing, hand-embroidering, hand-embellishing, ornamental hand-stitching, hand-drawing of threads, and similar hand operations involving decorative effects on leather gloves (gloves or mittens manufactured from leather or from leather in combination with other material), except mending, repairing, sewing of labels, tacking, and similar operations on leather gloves that are wholly or chiefly machine-sewn.

(3) *Knit gloves classification.* (i) The minimum wage for this classification is $1.55 per hour.

(ii) This classification is defined as the manufacture of knit or crocheted gloves and mittens, except the attaching of leather or leather substitutes to otherwise complete knit or crocheted gloves and/or mittens.

(4) *Other operations classification.* (i) The minimum wage for this classification is $1.50 per hour.

(ii) This classification is defined as all operations except those included in the hand-sewing on fabric gloves classification, the hand-sewing on leather gloves classification and the knit gloves classification.

(b) *1961 coverage classifications.* The classifications in this paragraph (b) apply to all activities of employees in the gloves and mittens industry in Puerto Rico to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1961.

(1) *Fabric and leather gloves classification.* (i) The minimum wage for this classification is $1.50 per hour.

(ii) This classification is defined as all activities in the manufacture of gloves and mittens, except those included in the knit gloves classification.

(2) *Knit gloves classification.* (i) The minimum wage for this classification is $1.60 an hour.

(ii) This classification is defined as the manufacture of knit or crocheted gloves and mittens.

(c) *1966 coverage classifications.* The classifications in this paragraph (c) apply to all activities of employees in the industry to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

(1) *Fabric and leather gloves classification.* (i) The minimum wage for this classification is $1.50 an hour.

(ii) This classification is defined as the manufacture of gloves and mittens, except those included in the knit gloves classification.

(2) *Knit gloves classification.* (i) The minimum wage for this classification is $1.60 an hour.

(ii) This classification is defined as the manufacture of knit or crocheted gloves and mittens.

### § 603.3 Notices.

Every employer subject to the provisions of § 603.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 603.2 are working such notice of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the U.S. Department of Labor and shall give such other notice as the Administrator may prescribe.

2. As revised, Part 612 reads as follows:

Sec.
612.1 Definition.
612.2 Wage rates.
612.3 Notices.

AUTHORITY: The provisions of this Part 612 issued under secs. 5, 6, 8, 52 Stat. 1062, 1064; 29 U.S.C. 205, 206, 208.

### § 612.1 Definition.

The needlework and fabricated textile products industry in Puerto Rico is defined as follows: The manufacture from any material of all apparel and apparel furnishings and accessories made by knitting, crocheting, cutting, sewing, embroidering, or other process; and the manufacture of all textile products and the manufacture of like articles in which a synthetic material in sheet form is the basic component: *Provided, however,* That the industry shall not include any product or activity included in the artificial flower, decoration, and party favor industry in Puerto Rico (Part 688 of this chapter), the button, jewelry, and lapidary work industry in Puerto Rico (Part 616 of this chapter), the corsets, brassieres, and allied garments industry in Puerto Rico (Part 614 of this chapter), the gloves and mittens industry in Puerto Rico (Part 603 of this chapter), the hosiery industry in Puerto Rico (Part 687 of this chapter), the men's and boys' clothing and related products industry in Puerto Rico (Part 615 of this chapter), the shoe and related products industry in Puerto Rico (Part 601 of this chapter), the straw, hair, and related products industry in Puerto Rico (Part 613 of this chapter), the textile and textile products industry in Puerto Rico (Part 699 of this chapter), the handkerchief, scarf, and art linen industry in Puerto Rico (Part 608 of this chapter), the women's and children's underwear and women's blouse industry in Puerto Rico (Part 609 of this chapter), the sweater and knit swimwear industry in Puerto Rico (Part 611 of this chapter), and the children's dress and related products industry in Puerto Rico (Part 610 of this chapter), as defined in the wage orders for these industries.

### § 612.2 Wage rates.

(a) *Requirement.* Wages at not less than those prescribed in this section shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees in each of the classifications in the industry who in any workweek is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce as those terms are defined in section 3 of the Act.

(b) *Pre-1961 coverage classifications.* The classifications in this paragraph (b) apply to all activities in the needlework and fabricated textile products industry in Puerto Rico to which section 6 of the Act would have applied before the Fair Labor Standards Amendments of 1961.

(1) *Knit slipper socks classification.* (1) The minimum wage for the knit slipper socks classification is $1.48 an hour.

(ii) This classification is defined as the manufacture of knit or crocheted slipper socks, mukluks, and similar types of footwear.

(2) *Hand-crocheting and hand-embroidery of crocheted hats classification.* (i) The minimum wage for this classification is $1.15 an hour.

(ii) This classification is defined as the operations of hand-crocheting, hand-knitting, and hand-embroidery of crocheted or knitted headwear for women, misses, girls, and infants 3 years of age or under.

(3) *Other operations on crocheted hats classification.* (i) The minimum wage for this classification is $1.45 an hour.

(ii) This classification is defined as any operation on crocheted or knitted headwear for women, misses, girls, and infants 3 years of age or under, other than the hand-crocheting and hand-embroidery operations, as defined above.

(4) *General classification.* (i) The minimum wage for this classification is $1.52 an hour.

(ii) This classification is defined as the manufacture from any material of all apparel and apparel furnishings and accessories, and all textile products and like articles in which a synthetic material in sheet form is the basic component, which are not included in any other classification of the needlework and fabricated textile products industry in Puerto Rico nor in the new coverage classifications; the outlining or embroidery of lace by machine and embroidery of any article or trimming on a bonnaz embroidery machine, or by a crochet beading process, or with bullion thread, and all operations immediately incidental thereto; the manufacture of crocheted slippers; the manufacture of slacks, pedal pushers, culottes, dungarees, shorts, and similar apparel for women, misses, and girls.

(c) *1961 coverage classification.* (1) The minimum wage for this classification is $1.60 an hour.

(2) This classification is defined as all activities of employees covered by section 6 of the Act, only by reason of the Fair Labor Standards Amendments of 1961 who are not included in any other classification of this industry or any other industry in Puerto Rico.

(d) *1966 coverage classification.* (1) The wage for this classification is $1.45 an hour for the period beginning February 1, 1970, and ending January 31, 1971, and $1.60 an hour thereafter.

(2) This classification is defined as all activities in the needlework and fabricated textile products industry in Puerto Rico to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

### § 612.3 Notices.

Every employer subject to the provisions of § 612.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 612.2 are working such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the U.S. Department of Labor and shall give such other notice as the Administrator may prescribe.

Signed at Washington, D.C., this 25th day of May 1971.

HORACE E. MENASCO,
*Administrator, Wage and Hour Division, U.S. Department of Labor.*

[FR Doc.71-7642 Filed 6-3-71;8:45 am]

# Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

## Chapter 60—Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor

## PART 60–6—SAN FRANCISCO PLAN

Affirmative Action Program to Assure Compliance With Equal Employment Opportunity Requirements of Executive Order 11246 for Federally Involved Construction Contractors.

Pursuant to a notice of hearing appearing in the FEDERAL REGISTER on December 1, 1970 (35 F.R. 18306), representatives of the Department of Labor conducted public hearings in San Francisco, Calif., on December 15, 16, and 17, 1970, for the purpose of determining what action should be taken to ensure equal employment opportunity in the construction industry in San Francisco, Calif. As a result of the findings made during those hearings, the San Francisco Plan is hereby issued and published in the FEDERAL REGISTER. A copy of the findings made as a result of the above noted hearings has been submitted with these regulations and is on file.

Therefore, and pursuant to Executive Order 11246 (30 F.R. 12319, 3 CFR 1964–65 Comp., p. 406) and §§ 60–1.1 and 60–1.40 of Title 41 of the Code of Federal Regulations, Chapter 60 of these regulations is hereby amended by adding a new Part 60–6 to read as set forth below.

**Subpart A—Purpose; Applicability; Background**

Sec.
60–6.1 Purpose of the San Francisco Plan.
60–6.2 Applicability.
60–6.3 Background.

**Subpart B—General Findings; Minority Participation in Specific Trades; Availability; Need for Training; Impact Upon Existing Labor Force**

60–6.10 General findings.
60–6.11 Minority participation in the specified trades.
60–6.12 Availability of minority group persons for employment.
60–6.13 Need for training.
60–6.14 The impact of the plan upon the existing labor force.
60–6.15 Conclusions of findings.

**Subpart C—Nondiscriminatory Purpose of the Plan; the Order; Exemptions From the Order; Authority; Effective Date**

60–6.20 Nondiscriminatory purpose of the plan.
60–6.21 The requirements, ranges of minority manpower utilization.
60–6.22 Exemptions.
60–6.23 Effective date.

**Subpart D—Appendix A**

60–6.30 Appendix A.

AUTHORITY: The provisions of this Part 60–6 are issued under secs. 201, 202, 205, 211, 301, 302, and 303 of Executive Order 11246 (30 F.R. 12319, 3 CFR 1964–65 Comp., p. 406) and secs. 60–1.1 and 60–1.40 of Title 41 of the Code of Federal Regulations.

### Subpart A—Purpose; Applicability; Background

#### § 60–6.1 Purpose.

The purpose of these regulations is to implement the provisions of Executive Order 11246, and the rules and regulations issued pursuant thereto, requiring a program of equal employment opportunity by Federal contractors and subcontractors and federally assisted construction contractors and subcontractors in the city and county of San Francisco, Calif., the area in which the most significant construction is being and will be performed.

#### § 60–6.2 Applicability.

While a contractor or subcontractor is performing on Federal or federally involved construction contracts for projects, in the city and county of San Francisco, Calif., the estimated total cost of which exceeds $500,000, all construction activities (including all activities on nonfederally involved work) of such a contractor or subcontractor within the city and county of San Francisco shall be subject to the requirements of these regulations: *Provided, however,* That if an areawide agreement is developed for any trade covered by these regulations or any such trade is covered by a multitrade agreement and such an agreement is among contractors, unions, and the minority community, then the Office of Federal Contract Compliance (OFCC) may, in its complete discretion, accept such program in lieu of any or all of the requirements of these regulations, subject to such terms and conditions as OFCC may specify.

#### § 60–6.3 Background.

Public hearings were conducted by representatives of the Department of Labor in San Francisco, Calif., on December 15, 16, and 17, 1970, to determine what action should be taken to insure equal employment opportunity in the construction industry in San Francisco, Calif. Testimony was heard and data received on the following:

(a) The current extent of minority group participation in the construction trades as journeymen, apprentices, trainees, and helpers;

(b) The effectiveness of present employee recruitment methods;

(c) The availability of qualified and qualifiable minority group persons for employment in each construction trade, including where they are now working, how they may be brought into the trades;

(d) The effectiveness of existing training programs in the area, including the number of minorities and other recruited into the programs, the number who complete training, the length and extent of training, employer experience with trainees, the need for additional or expanded training programs;

(e) The number of additional workers that could be absorbed into each trade without displacing present employees, including consideration of present employee shortages, projected growth of the trade, projected employee turnover;

(f) The availability and utilization of minority contractors on federally involved contracts;

(g) The desirability and extent, including the geographical scope, of possible Federal action to ensure equal employment opportunity in the construction trades;

(h) Recommendations of governmental compliance agencies active in the San Francisco, Calif., area.

### Subpart B—General Findings; Minority Participation in Specific Trades; Availability; Need for Training; Impact Upon Existing Labor Force

#### § 60–6.10 General findings.

As a result of the material presented at the public hearing in San Francisco and as a result of other investigations, it is apparent that minority workers (Negroes, Spanish surname American, Orientals, and American Indians) have been prevented from fully participating in certain construction trades. This exclusion is due in great measure to the special nature of employment practices in the construction industry where contractors and subcontractors rely on construction craft unions as their prime or sole labor source. Collective bargaining agreements and/or established custom between construction contractors and subcontractors and unions frequently provide for, or result in, exclusive hiring halls. Even where the collective bargaining agreement contains no such hiring hall provisions or the custom is not rigid, as a practical matter most people working in these classifications are referred to the jobs by the unions. As a result, referral by the union is a virtual necessity for obtaining employment in union construction projects. Minorities often have not gained admittance into membership of certain unions and into certain apprenticeship programs, and, thus, in addition to other reasons, have not been referred for employment.

#### § 60–6.11 Minority participation in the specified trades.

(a) The overall minority population in the city and county of San Francisco is approximately 30 percent. Minority representation among journeymen employees in the San Francisco area construction industry is approximately 15.5 percent. However, very few of these minorities are located in certain "skilled" trades.

(b) Statistical data. The most reliable data developed at the recent hearings reveals the following as the current minority representation in unions in selected trades for the San Francisco area.

Asbestos Workers, 7.4 percent.
Electricians, 8.3 percent.
Pipefitters-Plumber-Steamfitter, 5.2 percent.
Carpenters, 14.5 percent.
Elevator Constructors, 17.5 percent.

Lathers, 13 percent.
Painters and Paperhangers, 30 percent.
Bricklayers, 28 percent.
Sheet Metal Workers, 10.5 percent.
Structural Metal Workers, 7.2 percent.
Tile and Terrazzo Workers, 4.8 percent.
Plasterers and Cement Masons, 34 percent.
Glaziers, 14.5 percent.
Operating Engineers, 17.5 percent.
Roofers and Slaters, 23.5 percent.

It is apparent from the foregoing that certain trades evidence a significant under utilization of minority employees. Most of the above-designated trades however, in the opinion of the Secretary as supported by finding of fact in that regard, do not appear to be engaged in the underutilization of minorities and accordingly will not be included under the requirements of these regulations, at this time.

As indicated below, the trade of tile and terrazzo workers whose statistical composition indicates the underutilization of minorities is a diminishing trade with few, if any, contemplated new jobs projected for the next 4 years. Thus, because the requirements of these regulations would otherwise require the possible displacement of incumbent employees by contractors attempting to meet the goals established pursuant to these regulations, that trade shall be excluded from the requirements of these regulations, subject to inclusion hereunder if subsequent review indicates a new job potential in the trade. Therefore, the requirements of these regulations shall apply only to the selected trades of asbestos workers, electricians, pipefitters-plumbers-steamfitters, sheet metal workers, and structural metal workers.

### § 60–6.12 Availability of minority group persons for employment.

(a) *Population.* Specific data was presented at the hearings and indicated that the minority percentage of the San Francisco population is approximately 30 percent or slightly less than one-third of the total population. However, testimony presented at the hearing and since updated, indicates that the unemployment rate for minorities nationally is approximately 9.6 percent and therefore exceeds 1½ times the unemployment rate for white persons of 5.3 percent. The unemployment rates for the State of California, at less than 6 percent for white persons while 9.5 percent for minorities closely parallels the national figures. Additionally, an estimated 37,500 minorities are classified as underemployed and underutilized, in the San Francisco area, in that they are employed part time only, employed full time with incomes below established poverty levels or are excluded from the work force due to employment barriers. Information presented at the hearing also indicates that there are approximately 1,000 minority construction helpers and apprentices in the San Francisco area. These persons have been working with journeymen in the various crafts and should be considered available for training that would upgrade their skills to journeymen level.

(b) There are active vocational training programs in a San Francisco CEP program with well over 100 enrollees.

(c) *Community involvement.* Testimony presented at the hearings revealed, and it has consistently been this Department's experience, that the effectiveness of recruitment of minority trainees and workers depends in large measure upon the active involvement of minority organizations in the community. Various representatives of minority organizations indicated that they would have little, if any, difficulty in recruiting minority workers for training and jobs in sufficient numbers to meet the manpower needs of the San Francisco construction industry.

(d) *Minority subcontractors.* Information gained at the hearing indicated, and it is found, that a number of minority subcontractors are operating effectively within the San Francisco area. Utilization of these subcontractors by contractors could significantly expand the participation of minority craftsmen on projects of Federal construction contractors.

### § 60–6.13 Need for training.

(a) *Existing programs.* (1) Testimony at the hearing revealed that training programs are in existence but that there is further need for training at all levels from preapprenticeship through skills refinement training for those about to become journeymen, with a particular need for the training of craftsmen who could become fully qualified journeymen with a limited amount of training. There are currently twenty-two (22) minority youths receiving training for employment in the construction industry and ninety-one (91) minority enrollees receiving training in the San Francisco CEP program.

(2) Through such programs as MDTA, OIC, AIC, CEP, high school vocational education and others, substantial numbers of minority persons annually receive preapprenticeship training in the selected trades, in San Francisco. From testimony received at the hearing, it appears that such organizations could train a sufficient number of minorities annually to satisfy present and prospective manpower needs of the industry if complemented by additional training programs and adequate funding.

(b) *Trainable persons.* It is found and determined that substantial number of minority persons can receive training annually in the San Francisco area through existing programs with additional funding. Specifically, it is believed that the number of minority persons receiving training in the selected trades can be increased threefold with reasonably expanded funding and facilities. The Manpower Administration of the Department of Labor is committed to make available such funds as may be necessary to carry out reasonable and effective training programs in furtherance of the objectives of these regulations and consistent with the policies and standards of the Manpower Administration as amplified in the President's statement of March 17, 1970, directing a 50 percent increase in construction skills training over the next 5 years.

### § 60–6.14 The impact of the program upon the existing labor force.

(a) *Contractors commitments.* A contractor could commit himself to minority hiring up to the annual rate of job vacancies for each trade without adverse impact upon the existing labor force. On the basis of specific information presented at the hearings plus national statistics from a Bureau of Labor Statistics Report of 1967 indicating new jobs requirements and outmigration from the construction trades covered by these regulations, it is expected that there will be 2,200 new job opportunities in San Francisco through 1975. These projections are not inconsistent with conservative national statistics which reveal that approximately 7.5 percent of construction trade workers are replaced each year due to death, retirement, disability, and outmigration.

(b) *Timetable.* In an effort to provide an affirmative action program and practical ranges for utilization of minority manpower which can be met by employers in hiring productive, trained minority craftsmen, these rules should be developed to cover an extended period of time. Testimony at the hearing indicated that a 4-year duration for the Plan is proper as the greatest need for additional manpower in the industry will take place during the first part of the decade. Therefore, it is found and determined that in order for these regulations to effect equal employment to the fullest extent, the standards of minority utilization should be determined for the next 4 years.

(c) *Projected new jobs.* (1) The annual percentage of new job opening per craft from 1971–75 are as follows:

| | |
|---|---|
| 1. Asbestos Worker | 13.0 |
| 2. Electricians | 3.3 |
| 3. Pipefitters | 3.5 |
| 4. Sheet Metal Workers | 3.0 |
| 5. Structural Metal Workers | 5.0 |

(2) It is estimated that new job openings for the above-listed trades will total approximately 2,200 over the next 4 years.

(3) Data submitted at the hearing indicates that the tile and terrazzo workers trade contemplates an annual reduction in available work equal to 10 percent and an attrition rate of 10 percent, leaving no new job opportunities in that trade.

### § 60–6.15 Conclusions of findings.

(a) *Current minority participation.* It is found that in the San Francisco work force data submitted at the public hearings that minority representation is approximately 30 percent among the "helpers" while in the skilled trades the minority representation is an extremely low, i.e., 5.2 percent among the pipefitters, and is far below that which should have resulted from participation in the past without regard to race, color,

or national origin. Therefore, it is determined that these rules are necessary to provide full minority participation in the following trades:

Asbestos Workers.
Electricians.
Pipefitters-Plumbers-Steamfitters.
Sheet Metal Workers.
Structural Metal Workers.

(b) *Effect of plan.* A construction contractor working in San Francisco could increase the minority participation in his trade significantly by hiring only minorities to fill new job openings (attrition plus growth). However, to do so would inevitably result in the exclusion of qualified nonminorities from such job opportunities. Based upon the fact that the minority population in San Francisco (a major source of construction manpower) is approximately 30 percent of the total population, upon the fact that minority unemployment rate in the San Francisco area is greater than one and one-half that of nonminority unemployment, upon the fact that there exists substantial minority underemployment in the area and upon the fact that significant and effective training programs now exist, it may be reasonably expected that in the filling of new and vacant jobs effective affirmative action efforts should produce at least one minority applicant for each nonminority applicant for effective construction employment.

(c) *Increased minority participation.* If new and vacated positions in only the trades covered by these rules totaling approximately 2,200 through 1975 were filled by one minority worker for each nonminority worker, the resultant increased minority participation in those trades alone through May 1975 would be approximately 1,100 workers. It has earlier been stated that between 1,000 and 1,200 minority persons are presently available to fill such jobs, most with some training. With the anticipated increase in those who should be available over the next 4 years it appears that more than sufficient numbers of minority workers will be available to effectively fill new and vacated construction trade positions.

(d) *Purpose of ranges.* By establishing ranges which anticipate good faith efforts by construction contractors to fill new and vacated jobs on at least a 1-to-1 minority-to-nonminority basis through May 1975, contractors may recruit from available minority manpower without displacing any existing craftsmen and without discriminating against any nonminority applicant for employment.

(e) *Evaluation and advisory recommendations.* The Department recognizes that the contractors, unions, and minority community, who must operate on a day-to-day basis under the requirements of these regulations, are in the best positions to evaluate the effectiveness of these regulations. Therefore, the Department shall make every effort to encourage and develop a voluntary committee representing these three groups, which committee shall periodically review the effectiveness of these regulations and make advisory recommendations to the Department in this regard.

## Subpart C—Nondiscriminatory Purpose of the Plan; the Order; Exemptions From the Order; Authority; Effective Date

### § 60–6.20 Nondiscriminatory purpose of the plan.

The purpose of the contractor's commitment to specific goals is to meet the contractor's affirmative action obligations and is not intended and shall not be used to discriminate against any qualified applicant or employee.

### § 60–6.21 Requirements.

(a) After full consideration and in view of the foregoing it is determined that:

(1) No contracts or subcontracts shall be awarded for Federal and federally assisted construction in the city and county of San Francisco, Calif., on projects whose estimated cost exceeds $500,000 unless the bidder completes and submits, prior to bid opening, the document identified as Appendix A, Notice of Requirement for Submission of Affirmative Action Plan to Insure Equal Employment Opportunity or a substantially similar document, which shall include specific goals of minority manpower utilization for each trade designated below which will be used by the contractor on all of his work (both Federal and non-Federal) within the city and county of San Francisco, Calif., during the term of his performance of the contract, such goals to be established by the contractor at least within the ranges established by these regulations. Minority manpower means, for the purposes of these rules, Negroes, Spanish surnamed Americans, Orientals, and American Indians. The trades utilizing the following classifications of employees are covered by these rules:

Electricians.
Plumbers, Pipefitters and Steamfitters.
Structural Metal Workers.
Sheet Metal Workers.
Asbestos Workers.

(2) A bidder who fails or refuses to complete or submit such goals shall not be deemed a responsive bidder and may not be awarded the contract or subcontract, but such goals need be submitted only for those trades to be used in the performance of the federally involved contract. In no case shall there be any negotiation over the provisions of the specific goals submitted by the bidder after the opening of bids and prior to the award of the contract.

(b) Each agency shall include, or require the applicant to include, in the invitation for bids, or other solicitation used for a federally involved (Federal or federally assisted) construction contract, when the estimated total cost of the construction project exceeds $500,000, a notice stating that to be eligible for award, each bidder will be required to comply with these rules for the hereinbefore designated trades to be used during the term of the performance of the contract whether or not the work is subcontracted. The form of such notice shall be substantially similar to the one designated as Appendix A of these regulations.

(c) The following percentages, constituting acceptable ranges within which a prospective contractor or subcontractor must establish his goals, are hereby established as the standards for minority manpower utilization for each of the designated trades in the city and county of San Francisco, Calif., for the next 4 years:

| Trade | Range of minority group employment |
|---|---|
| | From May 1, 1971 Until Apr. 30, 1972 |
| | *Percent* — *Percent* |
| Electricians | 10 — 12 |
| Plumbers, pipefitters and steamfitters | 7 — 9 |
| Structural metal workers | 10 — 12 |
| Sheet metal workers | 12 — 14 |
| Asbestos workers | 14 — 20 |
| | From May 1, 1972 Until Apr. 30, 1973 |
| Electricians | 12 — 13 |
| Plumbers, pipefitters and steamfitters | 9 — 10 |
| Structural metal workers | 12 — 15 |
| Sheet metal workers | 14 — 15 |
| Asbestos workers | 20 — 27 |
| | From May 1, 1973 Until Apr. 30, 1974 |
| Electricians | 13 — 15 |
| Plumbers, pipefitters and steamfitters | 10 — 12 |
| Structural metal workers | 15 — 17 |
| Sheet metal workers | 15 — 17 |
| Asbestos workers | 27 — 33 |
| | From May 1, 1974 Until Apr. 30, 1975 |
| Electricians | 15 — 17 |
| Plumbers, pipefitters and steamfitters | 12 — 14 |
| Structural metal workers | 17 — 20 |
| Sheet metal workers | 17 — 19 |
| Asbestos workers | 33 — 40 |

(1) After the first year of the program, the standards (trades and ranges) set forth herein shall be reviewed to determine whether the projections on which these standards are based adequately reflect the construction labor market situation at that time. Reductions or other significant fluctuations in federally involved construction shall be specifically reviewed from time to time as to their effect upon the practicality of the standards. In no event, however, shall the standards be increased or trades be added for the contractors after bids have been received.

(2) The contractor's or subcontractor's goals established within the above ranges shall express the contractor's or subcontractor's commitment of the percentage of minority personnel who will be working in each specified craft on each of his projects (whether federally involved or otherwise) within the city and county of San Francisco during the term of the covered contract. The man hours for minority workers must be substantially uniform throughout the entire length of the contract for each of the designated

trades, to the effect that the percentage of minority workers in the designated trades must be working throughout the length of work on each project in each trade. The contractor or subcontractor shall be deemed to have met his commitment to specific goals for minority manpower utilization:

(i) If the minority manpower utilization rate of the contractor or subcontractor itself meets the goals on the total of all of the contractor's or subcontractor's facilities within the city and county of San Francisco: *Provided, however,* That if the contractor has denied equal employment opportunity, he shall not be in compliance with these rules, or

(ii) If the contractor or subcontractor can establish that it is a member of a contractor association or other employer organization or association, which has as one of its purposes the expanded utilization of minority manpower and that the total utilization rate of minority craftsmen by all member contractors and subcontractors of such an association or organization on all projects in which they are involved within the city and county of San Francisco meets the contractor's or subcontractor's commitments: *Provided, however,* That if the contractor has denied equal employment opportunity, he shall not be in compliance with these rules, or

(iii) If the contractor or subcontractor can establish that it has a collective bargaining agreement with a union or other employee organization, that it utilizes that union or organization as its source for over 80 percent of its manpower needs and that the total minority utilization range in the craft or crafts for which the union or organization has referred manpower on all projects within the San Francisco area to which such union or organization has referred manpower meets the contractor's or subcontractor's commitments: *Provided, however,* That if the contractor has denied equal employment opportunity he shall not be in compliance with these rules.

(3) Whenever a contractor or subcontractor uses trades covered by these regulations which were not contemplated at the time of his bid and therefore he does not submit goals for such trades, he shall be deemed to be committed to the minority group employment goal of the minimum percentage range for that trade for the appropriate year.

(4) In the event that under a contract subject to these regulations any work by a covered trade is performed after April 30, 1975, the determined ranges of minority group employment for the year ending April 30, 1975, shall be applicable to such work.

(d) The contractor's and subcontractor's commitment to specific goals is to meet affirmative action obligations and is not intended and shall not be used to discriminate against any qualified applicant or employee. Whenever it comes to the bidder's or contractor's attention that the goals are being used in a discriminatory manner, he shall immediately report that fact to the Office of Federal Contract Compliance of the U.S. Department of Labor in order that appropriate proceedings may be instituted.

(e) The contractor's or subcontractor's (collectively hereinafter referred to as "contractor") commitment to specific goals for minority manpower utilization as required by these rules shall constitute a commitment to make every good faith effort to meet such goals. If the contractor has failed to meet his goals, a determination of "good faith" will be based upon his efforts to broaden his recruitment base which efforts shall include but not be limited to the following:

(1) The contractor shall notify community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' responses.

(2) The contractor shall maintain a file of the names and addresses of each minority worker referred to him and what action was taken with respect to each such referred worker. If such worker was not sent to the union hiring hall for referral or if such worker was not employed by the contractor, the contractor's file should document this and the reasons therefor.

(3) The contractor shall notify the OFCC Area Coordinator when the union or unions with whom the contractor has a collective bargaining agreement has not referred to the contractor a minority worker sent by the contractor or the contractor has other information that the union referral process has impeded him in his effort to meet his goal.

(4) The contractor shall participate in training programs in the area, especially those funded by the Department of Labor.

(5) The contractor shall disseminate his EEO policy within his own organization by including it in any policy manual, by publicizing it in company newspapers, annual reports, etc., by conducting staff, employee and union representatives' meetings to explain and discuss the policy, by posting the policy, and by specific review of the policy with minority employees.

(6) The contractor shall disseminate his EEO policy externally by informing and discussing it with all recruitment sources, by advertising in news media, specifically including minority news media, by notifying and discussing it with all known minority organizations, and by notifying and discussing it with all subcontractors and suppliers.

(7) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority organizations, schools with minority students, minority recruitment organizations, and minority training organizations, within the contractor's recruitment area.

(8) The contractor shall make specific efforts to encourage present minority employees to recruit their friends and relatives.

(9) The contractor shall validate all man specifications, selection requirements, tests, etc.

(10) The contractor shall make every effort to provide afterschool, summer and vacation employment to minority youths.

(11) Where reasonable the contractor shall develop on-the-job training opportunities and participate and assist in any association or employer group training programs relevant to the contractor's employee needs.

(12) The contractor shall continually inventory and evaluate all minority personnel for promotion opportunities and encourage minority employees to seek such opportunities.

(13) The contractor shall make sure that seniority practices, job classifications, etc., do not have a discriminatory effect.

(14) The contractor shall make certain that all facilities and company activities are nonsegregated.

(15) The contractor shall continually monitor all personnel activities to insure that this EEO policy is being carried out.

(16) The contractor shall solicit bids for subcontracts from available minority subcontractors with the trades covered by these rules, including circulation of minority contractor associations.

(f) Each agency shall review contractor's and subcontractor's employment practices during the performance of the contract. If the contractor or subcontractor meets its goals or if the contractor or subcontractor can demonstrate that it has made every good faith effort to meet those goals, the contractor shall be presumed to be in compliance with Executive Order 11246, the implementing regulations and its obligations under this order and no formal sanctions shall be instituted unless the agency otherwise determined that the contractor or subcontractor is not providing equal employment opportunities. Where the agency finds that the contractor or subcontractor has failed to comply with the requirements of Executive Order 11246, the implementing regulations and its obligations under the order, the agency shall take such action and impose such sanctions as may be appropriate under the Executive order and the regulations. When the agency proceeds with such formal action it has the burden of proving that the contractor has not met the requirements of these specifications, but the contractor's failure to meet his goals shall shift to him the requirement to come forward with evidence to show that he has met the "good faith" requirements of these rules. Such noncompliance by the contractor or subcontractor shall be taken into consideration by Federal agencies in determining whether such contractor or subcontractor can comply with the requirements of Executive Order 11246 and is therefore a "responsible prospective contractor" within the meaning of the Federal procurement regulations.

(g) It shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer

minority employees. Discrimination in referral for employment, even if pursuant to provisions of a collective bargaining agreement, is prohibited by the Labor Management Relations Act and title VII of the Civil Rights Act of 1964. It is the long-standing uniform policy of OFCC that contractors and subcontractors have a responsibility to provide equal employment opportunity if they want to participate in federally involved contracts. To the extent they have delegated the responsibility for some of their employment practices to some other organization or agency which prevents them from meeting their obligations pursuant to Executive Order 11246, as amended, such contractors cannot be considered to be in compliance with Executive Order 11246, as amended, or the implementing rules, regulations, and orders.

(h) All prime contractors and subcontractors shall include in all bid invitations or other prebid communications, written or otherwise, with respect to their prospective subcontractors, the goals, as applicable, which are required under these regulations. Whenever a prime contractor or subcontractor subcontracts a portion of the work in any trade designated herein, he shall include in such subcontract his commitment made under this order, as applicable, which shall be adopted by his subcontractor, who shall be bound thereby and by this order to the full extent as if he were the prime contractor. The prime contractor shall not be accountable for the failure of his subcontractor to fulfill his requirements, however, the prime contractor or subcontractor shall give notice to the Area Coordinator of the Office of Federal Contract Compliance of the Department of Labor and the contracting agency, of any refusal or failure of any subcontractor to fulfill his obligations under these regulations. Failure of compliance by any subcontractor will be treated in the same manner as such failure by the prime contractor.

(i) Nothing in these rules shall be interpreted to diminish the responsibilities of the contracting and administering agencies nor the obligations of contractors pursuant to Executive Order 11246 for those trades and those contracts not covered by these regulations.

(j) The procedures set forth in these rules shall not apply to any contract when the head of the contracting or administering agency determines that such contract is essential to the national security and that its award without following such procedures is necessary to the national security. Upon making such a determination, the agency head will notify, in writing, the Director of the Office of Federal Contract Compliance within 30 days.

(k) Nothing in these rules shall be interpreted to diminish the present contract compliance review and complaint programs.

### § 660–6.22 Exemptions.

Requests for exemptions from these rules must be made in writing, with justification, to the Director, Office of Federal Contract Compliance, U.S. Department of Labor, Washington, D.C. 20210, and shall be forwarded through and with the endorsement of the agency head.

### § 60–6.23 Effective date.

The provisions of this part will be effective with respect to transactions for which the invitations for bids or other solicitations for bids, or additions or amendments thereto, are sent on or after the publication of these regulations.

## Subpart D—Appendix A

### § 60–6.30 Appendix A.

For inclusion in the Invitation or Other Solicitation for Bids for a Federally Involved Construction Contract in the City and County of San Francisco, Calif., when the estimated total cost of the contruction project exceeds $500,000.

NOTICE OF REQUIREMENT FOR SUBMISSION OF AFFIRMATIVE ACTION PLAN TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY

*NOTICE*

*TO BE ELIGIBLE FOR AWARD OF THE CONTRACT, EACH BIDDER MUST FULLY COMPLY WITH THE REQUIREMENTS, TERMS, AND CONDITIONS OF THIS APPENDIX A.*

The following are hereby submitted by the undersigned bidder as its goals for minority manpower utilization ("minority" being Negro, Spanish surnamed American, Oriental, and American Indian) to be achieved on all work of the bidder within the city and county of San Francisco, Calif., during the terms of his performance of this contract in the trades specified below in conformity with the requirements, terms, and conditions of this Appendix A hereinafter set forth:

| Trade: | *Total number of manhours to be worked by minority persons on all bidder's projects within the city and county of San Francisco including on this contract, expressed in terms of a percentage of the total number of manhours to be worked until April 30, 1972.* |
|---|---|
| Electricians | |
| Plumbers, Pipefitters and Steamfitters | |
| Structural Metal Workers | |
| Sheetmetal Workers | |
| Asbestos Workers | |

| Trade: | *Total number of manhours to be worked by minority persons on all bidder's projects within the city and county of San Francisco including on this contract, expressed in terms of a percentage of the total number of manhours to be worked from May 1, 1972, until April 30, 1973.* |
|---|---|
| Electricians | |
| Plumbers, Pipefitters and Steamfitters | |
| Structural Metal Workers | |
| Sheetmetal Workers | |
| Asbestos Workers | |

| Trade: | *Total number of manhours to be worked by minority persons on all bidder's projects within the city and county of San Francisco including on this contract, expressed in terms of a percentage of the total number of manhours to be worked from May 1, 1973, until April 30, 1974.* |
|---|---|
| Electricians | |
| Plumbers, Pipefitters and Steamfitters | |
| Structural Metal Workers | |
| Sheetmetal Workers | |
| Asbestos Workers | |

| Trade: | *Total number of manhours to be worked by minority persons on all bidder's projects within the city and county of San Francisco including on this contract, expressed in terms of a percentage of the total number of manhours to be worked from May 1, 1974, until April 30, 1975.* |
|---|---|
| Electricians | |
| Plumbers, Pipefitters and Steamfitters | |
| Structural Metal Workers | |
| Sheetmetal Workers | |
| Asbestos Workers | |

REQUIREMENTS, TERMS, AND CONDITIONS

1. No contracts or subcontracts shall be awarded for Federal or federally assisted construction in the city and county of San Francisco, Calif., on projects whose estimated cost exceeds $500,000 unless the bidder completes and submits, prior to bid opening, this document designated as Appendix A, or a substantially similar document, which shall include specific goals of minority manpower utilization for each trade designated below which will be used by the contractor on all his work within the city and county of San Francisco, Calif., during the term of his performance of the contract, such goals to be established by the contractor at least within the ranges established by this appendix in Section 3 thereof. Minority manpower means, for the purposes of this appendix, Negroes, Spanish surnamed Americans, Orientals, and American Indians. The trades utilizing the following classifications of employees are covered by this appendix:

Electricians.
Plumbers, Pipefitters and Steamfitters.
Structural Metal Workers.
Sheet Metal Workers.
Asbestos Workers.

A bidder who fails or refuses to complete or submit such goals shall not be deemed a responsive bidder and may not be awarded the contract or subcontract, but such goals need be submitted only for those trades which the contractor contemplates to be used in the performance of the federally involved contract. In no case shall there be any negotiations over the provisions of the specific goals submitted by the bidder after the opening of bids and prior to the award of the contract.

2. Each Federal agency shall include, or require the applicant to include, in the invitation for bids, or other solicitation used for a federally involved (Federal or federally assisted) construction contract, when the estimated total cost of the construction project exceeds $500,000, a notice stating that to be eligible for award, each bidder will be required to comply with this appendix for the hereinbefore designated trades to be used during the term of the performance of the contract—whether or not the work is subcontracted. The form of such notice shall be substantially similar to this Appendix A.

3. The following ranges, constituting acceptable minimums upon which a prospective contractor or subcontractor must establish his goals are hereby established as the standards for minority manpower utilization for each of the designated trades in the city and county of San Francisco, Calif., for the next 4 years:

| Trade | Range of minority group employment | |
|---|---|---|
| | From May 1, 1971 | Until Apr. 30, 1972 |
| | *Percent* | *Percent* |
| Electricians | 10 | 12 |
| Plumbers, pipefitters and steamfitters | 7 | 9 |
| Structural metal workers | 10 | 12 |
| Sheet metal workers | 12 | 14 |
| Asbestos workers | 14 | 20 |
| | From May 1, 1972 | Until Apr. 30, 1973 |
| Electricians | 12 | 13 |
| Plumbers, pipefitters and steamfitters | 9 | 10 |
| Structural metal workers | 12 | 15 |
| Sheet metal workers | 14 | 15 |
| Asbestos workers | 20 | 27 |
| | From May 1, 1973 | Until Apr. 30, 1974 |
| Electricians | 13 | 15 |
| Plumbers, pipefitters and steamfitters | 10 | 12 |
| Structural metal workers | 15 | 17 |
| Sheet metal workers | 15 | 17 |
| Asbestos workers | 27 | 33 |
| | From May 1, 1974 | Until Apr. 30, 1975 |
| Electricians | 15 | 17 |
| Plumbers, pipefitters and steamfitters | 12 | 14 |
| Structural metal workers | 17 | 20 |
| Sheet metal workers | 17 | 19 |
| Asbestos workers | 33 | 40 |

After the first year of the program, the standards (trades and ranges) set forth herein shall be reviewed to determine whether the projections on which these standards are based adequately reflect the construction labor market situation at that time. Reductions or other significant fluctuations in federally involved construction shall be specifically reviewed from time to time as to their effect upon the practicality of the standards. In no event, however, shall the standards be increased or trades be added for the contracts after bids have been received.

The contractor's or subcontractor's goals established within the above ranges shall express the contractor's or subcontractor's commitment of the percentage of minority personnel who will be working in each specified craft on each of his projects (whether federally involved or otherwise) within the city and county of San Francisco, Calif., during the term of the covered contract.

The man hours for minority workers must be substantially uniform throughout the entire length of the contract for each of the designated trades, to the effect that the percentage of minority workers in the designated trades must be working throughout the length of work on each project in each trade. The contractor or subcontractor shall be deemed to have met his commitment to specific goals for minority manpower utilization:

(a) If the minority manpower utilization rate of the contractor or subcontractor itself meets the goals on the total of all of the contractor's or subcontractor's facilities within the city and county of San Francisco: *Provided, however,* That if the contractor has denied equal employment opportunity, he shall not be in compliance with this appendix, or

(b) If the contractor or subcontractor can establish that it is a member of a contractor's association or other employer organization or association, which has as one of its purposes the expanded utilization of minority manpower and that the total utilization rate of minority craftsmen by all member contractors and subcontractors of such an association or organization on all projects in which they are involved within the city and county of San Francisco meets the contractor's or subcontractor's commitments: *Provided, however,* That if the contractor has denied equal employment opportunity, he shall not be in compliance with this appendix, or

(c) If the contractor or subcontractor can establish that it has a collective bargaining agreement with a union or other employee organization, that it utilizes that union or organization as its source for over 80 percent of its manpower needs and that the total minority utilization rate in the craft or crafts for which the union or organization has referred manpower on all projects within city and county of San Francisco to which such union or organization has referred manpower, meets the contractor's or subcontractor's commitments: *Provided, however,* That if the contractor has denied equal employment opportunity, he shall not be in compliance with this appendix.

4. Whenever a contractor or subcontractor uses trades covered by this appendix which were not contemplated at the time of his bid and he therefore does not submit goals for such trades, he shall be deemed to be committed to the minority group employment goal of the minimum percentage range for that trade for the appropriate year.

In the event that under a contract subject to this appendix any work by a trade covered by this appendix is performed after April 30, 1975, the determined ranges of minority group employment for the year ending April 30, 1976, shall be applicable to such work.

5. The contractor's and subcontractor's commitment to specific goals is to meet affirmative action obligations and is not intended and shall not be used to discriminate against any qualified applicant or employee. Whenever it comes to the bidder's or contractor's attention that the goals are being used in a discriminatory manner, he shall immediately report that fact to the Office of Federal Contract Compliance of the U.S. Department of Labor in order that appropriate proceedings may be instituted.

6. The contractor's or subcontractor's (collectively hereinafter referred to as "contractor") commitment to specific goals for minority manpower utilization as required by this Appendix A shall constitute a commitment to make every good faith effort to meet such goals. If the contractor has failed to meet his goals, a determination of "good faith" will be based upon his efforts to broaden his recruitment base which efforts shall include but not be limited to the following:

(a) The contractor shall notify community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' response.

(b) The contractor shall maintain a file of the names and addresses of each minority worker referred to him and what action was taken with respect to each such referred worker. If such worker was not sent to the union hiring hall for referral or if such worker was not employed by the contractor, the contractor's file should document this and reasons therefor.

(c) The contractor shall promptly notify the OFCC Area Coordinator when the union or unions with whom the contractor has a collective bargaining agreement has not referred to the contractor a minority worker sent by the contractor or the contractor has other information that the union referral process has impeded him in his efforts to meet his goal.

(d) The contractor shall participate in training programs in the area, especially those funded by the Department of Labor.

(e) The contractor shall disseminate his EEO policy within his own organization by including it in any policy manual; by publicizing it in company newspapers, annual report, etc.; by conducting staff, employee and union representatives' meetings to explain and discuss the policy; by posting of the policy; and by specific review of the policy with minority employees.

(f) The contractor shall disseminate his EEO policy externally by informing and discussing it with all recruitment sources; by advertising in news media, specifically including minority news media; and by notifying and discussing it with all subcontractors and suppliers.

(g) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority organizations, schools with minority students, minority recruitment organizations, and minority training organizations, within the contractor's recruitment area.

(h) The contractor shall make specific efforts to encourage present minority employees to recruit their friends and relatives.

(i) The contractor shall validate all man specifications, selection requirements, tests, etc.

(j) The contractor shall make every effort to provide afterschool, summer, and vacation employment to minority youths.

(k) Where reasonable the contractor shall develop on-the-job training opportunities and participate and assist in any association or employer-group training programs relevant to the contractor's employee needs.

(l) The contractor shall continually inventory and evaluate all minority personnel for promotion opportunities and encourage minority employees to seek such opportunities.

(m) The contractor shall make sure that seniority practices, job classifications, etc., do not have a discriminatory effect.

(n) The contractor shall make certain that all facilities and company activities are nonsegregated.

(o) The contractor shall continually monitor all personnel activities to insure that his EEO policy is being carried out.

(p) The contractor shall solicitate bids for subcontracts from available minority subcontractors with the trades covered by this

order, including circulation of minority contractor associations.

7. Each agency shall review contractors' and subcontractors' employment practices during the performance of the contract. If the contractor and subcontractor meets its goals or if the contractor or subcontractor can demonstrate that it has made every good faith effort to meet those goals, the contractor shall be presumed to be in compliance with Executive Order 11246, the implementing regulations and its obligations under this appendix and no formal sanctions or proceedings leading toward sanctions shall be instituted unless the agency otherwise determines that the contractor or subcontractor is not providing equal employment opportunities. Where the agency finds that the contractor or subcontractor has failed to comply with the requirements of Executive Order 11246, the implementing regulations and its obligations under its Appendix, the agency shall take such action and impose such sanctions as may be appropriate under the Executive order and the regulations. When the agency proceeds with such formal action it has the burden of proving that the contractor has not met the requirements of this appendix, but the contractor's failure to meet his goals shall shift to him the requirement to come forward with evidence to show that he has met the "good faith" requirements of this appendix. Such noncompliance by the contractor or subcontractor shall be taken into consideration by Federal agencies in determining whether such contractor or subcontractor can comply with the requirements of Executive Order 11246 and is therefore a "responsible prospective contractor" within the meaning of the Federal procurement regulations.

8. It shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees. Discrimination in referral for employment, even if pursuant to provisions of a collective bargaining agreement, is prohibited by the National Labor Relations Act, as amended, and Title VII of the Civil Rights Act of 1964. It is the long-standing uniform policy of OFCC that contractors and subcontractors have a responsibility to provide equal employment opportunity if they want to participate in federally involved contracts. To the extent they have delegated the responsibility for some of their employment practices to some other organization or agency which prevents them from meeting their obligations pursuant to Executive Order 11246, as amended, such contractors cannot be considered to be in compliance with Executive Order 11246, as amended, or the implementing rules, regulations, and orders.

9. All prime contractors and subcontractors shall include in all bid invitations or other prebid communications, written or otherwise, with respect to their prospective subcontractors, the goals, as applicable, which are required under this appendix. Whenever a prime contractor or subcontractor subcontracts a portion of the work in any trade designated herein, he shall include in such subcontract his committment made under this appendix, as applicable, which shall be adopted by his subcontractor, who shall be bound thereby and by this appendix to the full extent as if he were the prime contractor. The prime contractor shall not be accountable for the failure of his subcontractor to fulfill his requirements. However, the prime contractor or subcontractor shall give notice to the Area Coordinator of the Office of Federal Contract Compliance of the Department of Labor and the contracting agency of any refusal or failure of any subcontractor to fulfill his obligations under this appendix. Failure of compliance by any subcontractor will be treated in the same manner as such failure by the prime contractor.

10. Contractors and subcontractors must keep such records and file such reports relating to the provisions of this appendix as shall be required by the contracting of administering agency.

11. Nothing in this appendix shall be interpreted to diminish the responsibilities of the contracting and administering agencies nor the obligations of contractors or subcontractors pursuant to Executive Order 11246 for those trades and those contracts not covered by this Appendix.

12. The procedures set forth in this Appendix shall not apply to any contract when the head of the contracting or administering agency determines that such contract is essential to the national security and that its award without following such procedures is necessary to the national security. Upon making such a determination, the agency head will notify, in writing, the Director of the Office of Federal Contract Compliance within 30 days.

13. Nothing in this appendix shall be interpreted to diminish the present contract compliance review and complaint programs.

14. Requests for exemption from this appendix must be made in writing, with justification, to the Director, Office of Federal Contract Compliance, U.S. Department of Labor, Washington, D.C. 20210, and shall be forwarded through and with the endorsement of the agency head.

15. This appendix shall be signed in the space provided below.

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(Bidder)

By ---

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(Date)

Signed at Washington, D.C., this 27th day of May 1971.

J. D. HODGSON,
*Secretary of Labor.*

ARTHUR A. FLETCHER,
*Assistant Secretary for Employment Standards.*

JOHN L. WILKS,
*Director, Office of Federal Contract Compliance.*

[FR Doc.71-7782 Filed 6-3-71;8:45 am]

# Title 42—PUBLIC HEALTH

## Chapter I—Public Health Service, Department of Health, Education, and Welfare

### SUBCHAPTER D—GRANTS

### PART 54—GRANTS FOR SPECIALIZED SERVICE FACILITIES

### Subpart B—Designation of Urban and Rural Poverty Areas

A notice of proposed rulemaking was published in the FEDERAL REGISTER (36 F.R. 6114) on April 2, 1971, proposing methods and procedures for determining the community mental health center catchment areas of the several States which will be designated as urban or rural poverty areas, in accordance with the provisions of sections 220(b)(2), 224(b), 242(b)(2), 243(d), 251(b), 271(b)(3), 401(h)(3), and 410 of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended (42 U.S.C. 2661 et seq.).

Interested persons were invited to submit within 30 days, written comments, suggestions, or objections regarding the proposed methods of designating poverty areas.

Fifteen responses were received, principally from State health or mental health officials in 13 States. All but one expressed some dissatisfaction with the proposed method. Twenty-nine States, however, proceeded to apply the proposed method tentatively, pending final promulgation, and submitted their ranked lists of catchment areas without comment, apparently experiencing no difficulty. Twelve other States have notified the National Institute of Mental Health that they are still working on their data but did not comment adversely on the methodology.

The substance of the written comments received and the Department's response to these comments is set forth below.

1. Use of 1960 data not satisfactory.

Upon analysis of the comments, it appears that the majority of the objections were not directed to the method itself but to the fact that "the latest available published data from the Department of Commerce, Bureau of the Census" which the States were directed to use in determining the percentage of families in each catchment area with incomes below the poverty level is current only through 1960.

We agree that it is unfortunate that 1970 data will not be available in time to make the 1971 determinations. It is not expected to be published until January 1972. The 1960 data in many instances does not accurately reflect present income levels and may perhaps unduly favor more sparsely populated rural areas. To alleviate the situation, every State agency was informed through our Regional Offices that if it can demonstrate satisfactorily through use of some alternative data that the income level of families in a specific catchment area has changed sufficiently since the taking of the 1960 census to justify a revision in the ranking of that catchment area, such revision may be approved. The State agency must request authority to make such a revision through the Regional Health Director to the Director, NIMH, who will act on the request on behalf of the Secretary.

The only other alternative to use of 1960 data is to wait for release of the 1970 data. This was not acceptable because it would deprive a large number of existing grantees who the Secretary believes will be determined to be serving poverty areas of much needed supplemental award in fiscal year 1971.

2. Certain areas known to be poor do not appear to qualify.

The second most frequent objection was again not directly related to the method of determining poverty areas but

to the fact that certain areas or facilities in the writer's home State, generally regarded as very poor, would not qualify.

Upon further review, it was determined that in most of the instances cited, the State had either failed to apply the additional poverty area designation method set forth in section 54.103 of the proposed regulations, or had applied it incorrectly. For example, contrary to the assertion of the Secretary of Health of Puerto Rico that few if any of his areas would qualify as poverty areas, it was found that upon applying the additional method correctly, 17 of the 18 catchment areas would probably be so qualified. This was also true of a particular area cited in New Mexico by the director of a community mental health center located in that area, and of two urban catchment areas in New Orleans, Louisiana. The Health Services and Mental Health Administration, through the NIMH and its regional offices, will provide consultation and assistance to the respective State agencies in applying the additional method correctly.

3. Percentages vs. absolute numbers of poor families.

Four responses urged that the total number rather than the percentage of poor families in a catchment area should be used in applying the primary method of designating poverty areas to avoid inadvertently discriminating against the urban poor.

This suggestion was given serious consideration. It was felt, however, that since the Act requires the designation of poverty catchment areas, the population of which may vary between 75,000 and 200,000, the whole number approach would not be acceptable. Moreover, the percentage approach best reflects the ability or inability of the catchment area as a whole to pay for community mental health services. Presumably the catchment areas with a smaller percentage of poor families will have a larger percentage of persons who can pay for services.

4. Total catchment area concept.

One mental health authority objected to the concept that an entire catchment area could benefit from poverty level funding even though some of its families were relatively affluent. Under the authorizing legislation, however, the poverty designations (and the resulting advantages) apply to catchment areas as a whole and not to specific families or individuals. Every community mental health center is required to serve all the residents of its area regardless of their economic circumstances.

5. The method is too difficult and costly to apply.

The Division of Health from the State of Washington expressed the fear that the proposed methods would be too difficult and costly for the State to use realistically.

It was determined that the Division of Health is not the State agency directly involved in ranking community mental health center catchment areas in Washington. Two other agencies, which have this particular responsibility, have nearly completed their preliminary work with no apparent difficulty or objection.

6. Separate lists for ranking.

It was suggested that each State use four separate lists of areas for ranking: Urban with funded centers; urban without funded centers; rural with funded centers; and rural without funded centers.

Adoption of this suggestion would greatly complicate the ranking procedures. It would be very difficult to differentiate clearly between urban and rural catchment areas. When 1970 census data is available, which data gives appropriate weight to the distinction between farm and nonfarm family incomes, this should alleviate the necessity for separate lists.

7. Priority for areas with funded centers.

It was suggested that catchment areas with funded community mental health centers be given priority in the rankings over areas which have not yet established such a center.

Even an area with no funded center derives certain specific benefits from a poverty area designation. For example, eligibility for an initiation and development grant depends on the area in question having received this designation. Also, a prospective center applicant who is not yet ready to provide all five services required by the regulations can be permitted to "phase in" two of the five services only if the area he serves has been designated as a poverty area. For these reasons, assignment of priority to areas with funded centers does not seem justified.

8. A differential Federal percentage should be applied.

It was recommended that a smaller number than 25 should be substracted from the State's Federal percentage for those States with the largest number of poor families. The writer suggested a "regional ranking" system rather than a national ranking system so that poor States would qualify for more aid than more affluent States.

The estimated Federal percentage is actually a kind of regional ranking system since poorer States are assigned a higher Federal percentage. Therefore a large percentage of the catchment areas in such a State will qualify as poverty catchment areas.

9. Financial ability of each area to meet its own needs should be a factor.

The proposed method was criticized for not taking into account the financial ability of the catchment area to meet its own needs.

The determination of the need for a Federal grant in relation to the financial ability of the catchment area to provide needed services, with or without preferential funding, is always carefully considered at the time an application for a grant is reviewed. The designation of a catchment area as a poverty area does not preclude the awarding of a grant at less than the maximum level of Federal participation should the area's ability to provide for its own needs warrant this determination.

10. States should be permitted to designate their own areas.

Two State health officials felt that each State should be permitted to establish its own criteria for designating poverty areas.

We believe that only if the same objective criteria are made applicable to all States can nationally consistent determinations be made.

Having carefully considered all the comments and suggestions received, and in view of the fact that the method of designating poverty areas will be reviewed annually and revised as experience dictates, the proposed regulation is hereby adopted without change and is set forth below.

*Effective date.* This regulation shall be effective upon publication in the FEDERAL REGISTER.

REGISTER (6-4-71).

VERNON E. WILSON,
*Administrator, Health Services and Mental Health Administration*

Approved: June 1, 1971.

ELLIOT L. RICHARDSON
*Secretary.*

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## PART 54—GRANTS FOR SPECIALIZED SERVICE FACILITIES

### Subpart B—Designation of Urban and Rural Poverty Areas

**§ 54.101 State ranking.**

(a) Using the latest available published data from the Department of Commerce, Bureau of the Census, each State shall determine what percentage of families living in each catchment area within its territorial borders have incomes below the poverty level described in subparagraph (2) of this paragraph.

(1) The term "catchment area" means a geographic area designated by a State which is served or will be served by an existing or proposed community mental health center.

(2) In determining the poverty level, the following standards shall be used:

(i) Revised OEO income Poverty Guidelines (Published in OEO Instructions, No. 6004-1.b., dated Dec. 1, 1970) for the 50 States and the District of Columbia. Those Guidelines are as follows:

ALL STATES (INCLUDING THE DISTRICT OF COLUMBIA) EXCEPT ALASKA AND HAWAII

| Family size | Nonfarm family | Farm family |
|---|---|---|
| 1 | $1,900 | $1,600 |
| 2 | 2,500 | 2,000 |
| 3 | 3,100 | 2,500 |
| 4 | 3,800 | 3,200 |
| 5 | 4,400 | 3,700 |

For families with more than five members, add $600 for each additional member in a nonfarm family and $500 for each additional member in a farm family.

ALASKA

| Family size | Nonfarm family | Farm family |
|---|---|---|
| 1 | $2,400 | $2,000 |
| 2 | 3,150 | 2,265 |
| 3 | 3,900 | 3,275 |
| 4 | 4,750 | 3,975 |
| 5 | 5,500 | 4,600 |

For families with more than five members, add $750 for each additional member in a nonfarm family and $625 for each additional member in a farm family.

HAWAII

| Family size | Nonfarm family | Farm family |
|---|---|---|
| 1 | $2,250 | $1,875 |
| 2 | 2,900 | 2,400 |
| 3 | 3,550 | 2,950 |
| 4 | 4,250 | 3,550 |
| 5 | 4,900 | 4,075 |

For families with more than five members, add $650 for each additional member in a nonfarm family and $525 for each additional member in a farm family.

(ii) Income poverty levels established by territorial or commonwealth governments for the following: American Samoa, Guam, Puerto Rico, Trust Territories of the Pacific Islands, and the Virgin Islands.

(b) Each State shall rank its catchment areas according to the percentage of families whose incomes fall below the poverty level in each area. The catchment area in each State with the highest percentage of families whose incomes fall below the poverty level shall be designated as number 1, and areas with lower percentages of such families shall be arrayed in ascending numerical order.

**§ 54.102 Designation of poverty areas.**

The Secretary will designate as poverty areas a percentage of catchment areas in each State to be determined as follows:

(a) The percentage of poverty catchment areas for each State shall be determined by subtracting 25 percent from each State's Federal percentage.

(b) The State's Federal percentage is the percentage established pursuant to section 401(i) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (42 U.S.C. 2661 et seq.) (hereinafter referred to as the "Act"), and promulgated in 33 F.R. 18593, for fiscal years 1971 and 1972.

EXAMPLE: If the Federal percentage for State X is 50 percent, 25 percent would be subtracted, leaving a balance of 25 percent. This means that the highest ranking 25 percent of the catchment areas listed by each State pursuant to § 54.101(b) would be designated as poverty areas.

**§ 54.103 Additional poverty area designations.**

(a) An applicant for a grant under any program authorized by Title II of the Act who wishes to serve a catchment area which was not designated as an urban or rural poverty area in accordance with the above procedures may apply to the Secretary to have such area designated as a poverty area under the provisions of section 410 of the Act.

(b) The Secretary shall add the area in question to the list of poverty areas with respect to the particular project if the applicant demonstrates to the Secretary's satisfaction that:

(1) At least one-half the population of the catchment area lives in one or more impoverished subareas.

(2) The percentage of families with incomes below the poverty level (as determined in accordance with § 54.101 (a)) who lives in these subareas is at least one and one-half times greater than the percentage of families with incomes below the poverty level living in the lowest ranked area for that State which has been designated as a poverty area pursuant to section 54.102.

(3) The project, facility, or program of services for which the applicant seeks support does, or will, focus on the needs of persons living in such subareas of poverty.

[FR Doc.71-7806 Filed 6-3-71;8:52 am]

# Title 47—TELECOMMUNICATION

## Chapter I—Federal Communications Commission

[FCC 71-577]

## PART 74—EXPERIMENTAL, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

### Suspension of Community Antenna Television Mandatory Origination Rule Pending Further Judicial Review

MAY 27, 1971.

Section 74.1111 of the Commission's rules requires Community Antenna Television Systems having 3,500 or more subscribers to operate to a significant extent as local outlets by cablecasting, i.e., the origination of program material not picked up from television broadcast stations. By decision of May 13, 1971, the U.S. Court of Apeals for the Eighth Circuit has held this requirement to be beyond the Commission's statutory authority. Midwest Video Corporation v. U.S., Case No. 20,439. The Commission has decided to request the Solicitor General of the United States to seek a writ of certiorari in this case. Pending the outcome of further judicial review the Commission is suspending application of § 74.1111. This suspension of course does not affect the right of CATV systems to cablecast upon a voluntary basis, or to make channels available to local citizens, nor does it affect the continuing applicability of other rules governing cablecasting operations. See § 74.1113 et seq.

Action by the Commission May 26, 1971. Commissioners Burch (Chairman), Bartley, Robert E. Lee, Johnson, H. Rex Lee and Houser.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
*Secretary.*

[FR Doc.71-7814 Filed 6-3-71;8:53 am]

# Proposed Rule Making

## DEPARTMENT OF THE INTERIOR

### National Park Service

### [ 36 CFR Part 7 ]

### LAKE MEAD NATIONAL RECREATION AREA, ARIZONA-NEVADA

### Colorado River Whitewater Trips

Notice is hereby given that pursuant to the authority contained in section 6 of the Act of October 8, 1964 (78 Stat. 1040; 16 U.S.C. 460n–5), section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), 245 DM1 (27 F.R. 6395) as amended, National Park Service Order No. 58 (36 F.R. 5627), it is proposed to amend § 7.48 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this amendment is to establish restrictions on use of National Park Service owned or controlled land along the Colorado River in Lake Mead National Recreation Area, from the common boundary with Grand Canyon National Monument to Diamond Creek at approximately river mile 226. The proposed regulations have become necessary to protect the wilderness quality and safety of the visitors seeking to enjoy a whitewater river trip.

It is the policy of the Department of the Interior, whenever practicable, to give the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendments to the Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, NV 89005, within 30 days of the publication of this notice in the FEDERAL REGISTER.

Paragraph (e) of § 7.48 is added to read as follows:

**§ 7.48 Lake Mead National Recreation Area.**

* * * * *

(e) *Colorado whitewater trips.* The following regulations shall apply to all persons and vessels using National Park Service owned or controlled land along the Colorado River within Lake Mead National Recreation Area, downstream to Diamond Creek at approximately river mile 226: (1) No vessel shall engage in upstream travel against the current or have a total horsepower in excess of 55.

(2) U.S. Coast Guard approved life preservers (jacket-type) must be worn by every person while on the river or while lining or portaging near rough water. One extra preserver must be carried for each ten (10) persons.

(3) No person shall conduct, lead or guide a river trip unless such person possesses a permit issued by the Superintendent, Grand Canyon National Park. The National Park Service reserves the right to limit the number of such permits issued, or the number of persons traveling on trips authorized by such permits when in the opinion of the National Park Service such limitations are necessary in the interest of public safety or protection of the ecological and environmental values of the area.

(i) The Superintendent, Grand Canyon National Park shall issue a permit upon a determination that the person leading, guiding, or conducting a river trip is experienced in running rivers in whitewater navigation of similar difficulty, and possesses appropriate equipment, which is identified in the terms and conditions of the permit.

(ii) No person shall conduct, lead, guide, or outfit a commercial river trip or engage in any business activity regarding river trips without first securing the above permit and possessing an additional permit authorizing the conduct of a commercial or business activity in the national recreation area.

(iii) An operation is commercial if any fee, charge, or other compensation is collected for conducting, leading, guiding, or outfitting a river trip. A river trip is not commercial if there is a bona fide sharing of actual expenses.

(4) All human waste will be taken out of the Canyon and will be deposited in established receptacles or disposed of by such means as is determined by the Superintendent.

(5) No person shall take a dog, cat, or other pet on a river trip.

(6) The kindling of a fire is permitted only on beaches. The fire must be completely extinguished only with water before abandoning the area.

(7) Swimming and bathing are permitted except in locations immediately above rapids, eddies, and riffles, or near rough water.

(8) Possession of a permit to conduct, guide, outfit, or lead a river trip also authorizes camping along the Colorado River by persons in the river trip party.

(9) All persons issued a river trip permit shall comply with all the terms and conditions of the permit.

JOSEPH C. RUMBERG, Jr.,
*Director, Western Region.*

[FR Doc.71-7667 Filed 6-3-71;8:45 am]

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### [ 36 CFR Part 7 ]

### MARBLE CANYON NATIONAL MONUMENT, ARIZ.

### Colorado River Whitewater Trips

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), and 245 DM1 (27 F.R. 6395), and National Park Service Order No. 21 (27 F.R. 7903) as amended, it is proposed to add § 7.88 to Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this addition is to establish restrictions on use of National Park Service owned or controlled land along the Colorado River in Marble Canyon National Monument. The proposed regulations are necessary to protect the wilderness quality and safety of the visitors seeking to enjoy a whitewater river trip.

It is the policy of the Department of the Interior, whenever practicable, to give the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed amendment to the Superintendent, Grand Canyon National Park, Grand Canyon, Ariz. 86023, within 30 days of the publication of this notice in the FEDERAL REGISTER.

Section 7.88 is added to read as follows:

**§ 7.88 Marble Canyon National Monument.**

(a) *Colorado whitewater trips.* The following regulations shall apply to all persons and vessels using National Park Service owned or controlled land along the Colorado River within Marble Canyon National Monument:

(1) No vessel shall engage in upstream travel against the current or have a total horsepower in excess of 55.

(2) U.S. Coast Guard approved life preservers (jacket-type) must be worn by every person while on the river or while lining or portaging near rough water. One extra preserver must be carried for each ten (10) persons.

(3) No person shall conduct, lead or guide a river trip unless such person possesses a permit issued by the Superintendent, Grand Canyon National Park. The National Park Service reserves the right to limit the number of such permits issued, or the number of persons traveling on trips authorized by such permits when in the opinion of the National Park Service such limitations are necessary in the interest of public safety or protection of the ecological and environmental values of the area.

(i) The Superintendent, Grand Canyon National Park shall issue a permit upon a determination that the person leading, guiding or conducting a river trip is experienced in running rivers in whitewater navigation of similar difficulty, and possesses appropriate equipment, which is identified in the terms and conditions of the permit.

(ii) No person shall conduct, lead, guide, or outfit a commercial river trip without first securing the above permit

and possessing an additional permit authorizing the conduct of a commercial or business activity in the monument.

(iii) An operation is commercial if any fee, charge or other compensation is collected for conducting, leading, guiding, or outfitting a river trip. A river trip is not commercial if there is a bona fide sharing of actual expenses.

(4) All human waste will be taken out of the canyon and will be deposited in established receptacles or disposed of by such means as is determined by the Superintendent.

(5) No person shall take a dog, cat, or other pet on a river trip.

(6) The kindling of a fire is permitted only on beaches. The fire must be completely extinguished only with water before abandoning the area.

(7) Picnicking is permitted on beach areas along the Colorado River.

(8) Swimming and bathing are permitted except in locations immediately above rapids, eddies, and riffles, or near rough water.

(9) Possession of a permit to conduct, guide, outfit or lead a river trip also authorizes camping along the Colorado River by persons in the river trip party; provided, however, no person shall camp at Red Wall Cavern.

(10) All persons issued a river trip permit shall comply with all the terms and conditions of the permit.

EDWARD A. HUMMEL,
*Assistant Director,*
*National Park Service.*

[FR Doc.71-7668 Filed 6-3-71;8:45 am]

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## [ 36 CFR Part 7 ]

## GLEN CANYON RECREATION AREA, UTAH-ARIZONA

### Pets and Colorado River Whitewater Trips

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), and 245 DM1 (27 F.R. 6395), and National Park Service Order No. 21 (27 F.R. 7903) as amended, it is proposed to amend § 7.70 of Title 36 of the Code of Federal Regulations to correct the title of this section and to add § 7.70 (d), (e), and (f) as set forth below.

The purpose of these amendments is to correct the title of § 7.70 to read Glen Canyon Recreation Area, to provide for stricter control of pets within the recreation area, to regulate assembly, launching, and storage of rafts and boats at Lees Ferry, Ariz., and to establish restrictions on use of National Park Service owned or controlled land along the Colorado River in Glen Canyon Recreation Area from the Paria Riffle at river mile zero downstream. The proposed regulations concerning use of lands along the Colorado River are necessary to protect the wilderness quality and safety of the visitors seeking to enjoy a whitewater river trip.

It is the policy of the Department of the Interior, whenever practicable, to give the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendments to the Superintendent, Glen Canyon Recreation Area, Post Office Box 1507, Page, AZ 86040, within 30 days of the publication of this notice in the FEDERAL REGISTER.

Section 7.70 is amended to read as follows:

§ 7.70 Glen Canyon Recreation Area.

* * * * *

(d) *Pets and other animals.* Pets and other animals shall be restrained so as to prevent noise, annoyance, or threat to the safety of persons.

(e) *Colorado whitewater trips.* The following regulations shall apply to all persons and vessels using National Park Service owned or controlled land along the Colorado River in Glen Canyon Recreation Area, from the Paria Riffle at river mile zero downstream:

(1) No vessel shall engage in upstream travel against the current or have a total horsepower in excess of 55 without a permit from the Superintendent.

(2) U.S. Coast Guard approved life preservers (jacket type) shall be worn by every person while on the river, or while lining or portaging near rough water. One extra preserver must be carried on each vessel for each ten (10) passengers.

(3) No person shall conduct, lead, or guide a river trip unless such person possesses a permit issued by the Superintendent, Grand Canyon National Park. The National Park Service reserves the right to limit the number of such permits issued, or the number of persons traveling on trips authorized by such permits when in the opinion of the National Park Service such limitations are necessary in the interest of public safety or protection of the ecological and environmental values of the area.

(i) The Superintendent, Grand Canyon National Park, shall issue a permit upon a determination that the person leading, guiding, or conducting a river trip is experienced in running rivers in whitewater navigation of similar difficulty, and possesses appropriate equipment, which is identified in the terms and conditions of the permit.

(ii) No person shall conduct, lead, guide, or outfit a commercial river trip without first securing the above permit and possessing an additional permit authorizing the conduct of a commercial or business activity in the recreation area.

(iii) An operation is commercial if any fee, charge or other compensation is collected for conducting, leading, guiding, or outfitting a river trip. A river trip is not commercial if there is a bona fide sharing of actual expenses.

(4) All human waste will be taken out of the canyon and deposited in established receptacles or disposed of by such means as is determined by the Superintendent.

(5) No person shall take a dog, cat, or other pet on a river trip.

(6) The kindling of a fire is permitted only on beaches. All fires must be completely extinguished only with water before abandoning the area.

(7) Swimming and bathing are permitted except in locations immediately above rapids, eddies, and riffles, or near rough water.

(8) No camping is allowed along the river bank between the junction of the Paria River with the Colorado River and Marble Canyon National Monument.

(9) All persons issued a river trip permit shall comply with all terms and conditions of the permit.

(f) *Assembly and launching of river rafts and boats.* The following regulations shall apply to all persons designated under paragraph (e) of this section (Colorado whitewater trips):

(1) The assembly and launching of rafts or boats, and parking or storing of any related equipment or supplies is restricted to those areas designated by the Superintendent.

(2) Within such designated areas, the Superintendent may assign or limit space and designate time periods of operation for each individual river trip or operator.

EDWARD A. HUMMEL,
*Assistant Director,*
*National Park Service.*

[FR Doc.71-7669 Filed 6-3-71;8:45 am]

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## [ 36 CFR Part 7 ]

## GRAND CANYON NATIONAL PARK, ARIZ.

### Colorado River Whitewater Trips

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), section 2 of the Act of February 26, 1919 (40 Stat. 1177; 16 U.S.C. 222), and section 2 of the Act of February 25, 1927 (44 Stat. 1240; 16 U.S.C. 221b), 245 DM1 (27 F.R. 6395), and National Park Service Order No. 21 (27 F.R. 7903) as amended, it is proposed to amend § 7.4 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this amendment is to establish restrictions on use of National Park Service owned or controlled land along the Colorado River in Grand Canyon National Park. The proposed regulations have become necessary to protect the wilderness quality and safety of the visitors seeking to enjoy a whitewater river trip.

It is the policy of the Department of the Interior, whenever practicable, to give the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Superintendent, Grand Canyon National Park, Grand Canyon, Ariz.

86023, within 30 days of the publication of this notice in the FEDERAL REGISTER.

Section 7.4 is amended to read as follows:

§ 7.4 Grand Canyon National Park.

* * * * *

(h) *Colorado whitewater trips.* The following regulations shall apply to all persons and vessels using National Park Service owned or controlled land along the Colorado River in Grand Canyon National Park:

(1) No vessel shall engage in upstream travel against the current or have a total horsepower in excess of 55.

(2) U.S. Coast Guard approved life preservers (jacket type) must be worn by every person while on the river or while lining or portaging near rough water. One extra preserver must be carried for each ten (10) persons.

(3) No person shall conduct, lead or guide a river trip unless such person possesses a permit issued by the Superintendent. The National Park Service reserves the right to limit the number of such permits issued, or the number of persons traveling on trips authorized by such permits when in the opinion of the National Park Service such limitations are necessary in the interest of public safety or protection of the ecological and environmental values of the area.

(i) The Superintendent shall issue a permit upon a determination that the person leading, guiding, or conducting a river trip is experienced in running rivers in whitewater navigation of similar difficulty, and possesses appropriate equipment, which is identified in the terms and conditions of the permit.

(ii) No person shall conduct, lead, guide or outfit a commercial river trip without first securing the above permit and possessing an additional permit authorizing the conduct of a commercial or business activity in the park.

(iii) An operation is commercial if any fee, charge or other compensation is collected for conducting, leading, guiding, or outfitting a river trip. A river trip is not commercial if there is a bona fide sharing of actual expenses.

(4) All human waste will be taken out of the Canyon and will be deposited in established receptacles or disposed of by such means as is determined by the Superintendent.

(5) No person shall take a dog, cat or other pet on a river trip.

(6) The kindling of a fire is permitted only on beaches. The fire must be completely extinguished only with water before abandoning the area.

(7) Picnicking is permitted on beach areas along the Colorado River.

(8) Swimming and bathing are permitted except in locations immediately above rapids, eddies, and riffles, or near rough water.

(9) Possession of a permit to conduct, guide, outfit or lead a river trip also authorizes camping along the Colorado River by persons in the river trip party; provided, however, no person shall camp at Elves Chasm or the mouth of Havasu Creek.

(10) All persons issued a river trip permit shall comply with all the terms and conditions of the permit.

EDWARD A. HUMMEL,
*Assistant Director,*
*National Park Service.*

[FR Doc.71-7670 Filed 6-3-71;8:45 am]

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## [ 36 CFR Part 7 ]

## GRAND CANYON NATIONAL MONUMENT, ARIZ.

### Colorado River Whitewater Trip

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), and 245 DM1 (27 F.R. 6395), and National Park Service Order No. 21 (27 F.R. 7903) as amended, it is proposed to amend § 7.60 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this amendment is to establish restrictions on use of National Park Service owned or controlled land along the Colorado River in Grand Canyon National Monument. The proposed regulations are necessary to protect the wilderness quality and safety of the visitors seeking to enjoy a whitewater river trip.

It is the policy of the Department of the Interior, whenever practicable, to give the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed amendment to the Superintendent, Grand Canyon National Park, Grand Canyon, Ariz. 86023, within 30 days of the publication of this notice in the FEDERAL REGISTER.

Section 7.60 is amended to read as follows:

§ 7.60 Grand Canyon National Monument.

(a) *Colorado whitewater trips.* The following regulations shall apply to all persons and vessels using National Park Service owned or controlled land along the Colorado River within Grand Canyon National Monument:

(1) No vessel shall engage in upstream travel against the current or have a total horsepower in excess of 55.

(2) U.S. Coast Guard approved life preservers (jacket-type) must be worn by every person while on the river or while lining or portaging near rough water. One extra preserver must be carried for each ten (10) persons.

(3) No person shall conduct, lead or guide a river trip unless such person possesses a permit issued by the Superintendent, Grand Canyon National Park. The National Park Service reserves the right to limit the number of such permits issued, or the number of persons traveling on trips authorized by such permits when in the opinion of the National Park Service such limitations are necessary in the interest of public safety or protection of the ecological and environmental values of the area.

(i) The Superintendent, Grand Canyon National Park shall issue a permit upon a determination that the person leading, guiding or conducting a river trip is experienced in running rivers in white water navigation of similar difficulty, and possesses appropriate equipment, which is identified in the terms and conditions of the permit.

(ii) No person shall conduct, lead, guide or outfit a commercial river trip without first securing the above permit and possessing an additional permit authorizing the conduct of a commercial or business activity in the monument.

(iii) An operation is commercial if any fee, charge or other compensation is collected for conducting, leading, guiding, or outfitting a river trip. A river trip is not commercial if there is a bona fide sharing of actual expenses.

(4) All human waste will be taken out of the Canyon and will be deposited in established receptacles or disposed of by such means as is determined by the Superintendent.

(5) No person shall take a dog, cat, or other pet on a river trip.

(6) The kindling of a fire is permitted only on beaches. The fire must be completely extinguished only with water before abandoning the area.

(7) Picnicking is permitted on beach areas along the Colorado River.

(8) Swimming and bathing are permitted except in locations immediately above rapids, eddies, and riffles, or near rough water.

(9) Possession of a permit to conduct, guide, outfit, or lead a river trip also authorizes camping along the Colorado River by persons in the river trip party.

(10) All persons issued a river trip permit shall comply with all the terms and conditions of the permit.

EDWARD A. HUMMEL,
*Assistant Director, National*
*Park Service.*

[FR Doc.71-7671 Filed 6-3-71;8:45 am]

# DEPARTMENT OF AGRICULTURE

## Consumer and Marketing Service

## [ 7 CFR Part 1079 ]

## MILK IN DES MOINES, IOWA, MARKETING AREA

### Notice of Proposed Suspension of Certain Provisions of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Des Moines, Iowa, marketing area is being considered for the month of June 1971 and continuing until a hearing can be held and the order amended with respect to supply plant provisions.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should

file the same with the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be suspended are as follows:

In § 1079.10 all of the provisions of paragraph (b).

The proposed suspension would make inoperative the pool supply plant provisions of the order.

The suspension action is requested by Associated Milk Producers, Inc., Farmers Cooperative Creamery Association, and Mid-America Dairymen, Inc., to preclude circumvention of the intent of the pool supply plant performance provisions of the order.

These producer associations, which represent most of the producers in this market, state that during the month of May 1971 a pool distributing plant at Ottumwa, Iowa, began receiving milk transported in tank trucks from a nonpool supply plant at Fredericksburg, Iowa, and reloading the milk back into the same tank trucks for shipment back to the Fredericksburg location. All of the fluid milk requirements of the Ottumwa distributing plant are being met with milk directly shipped from producers' farms as has been the case for a number of years.

The producer associations contend that the pool supply plant provisions were intended to help identify the sources of milk being used in meeting the demands of the fluid market, but that the backhauling practice now going on between the Fredericksburg and Ottumwa locations constitutes a predetermined commitment of pool milk to manufacturing use, contrary to the basic intent of the shipping performance requirements of the Des Moines order.

Signed at Washington, D.C., on June 1, 1971.

JOHN C. BLUM,
*Deputy Administrator,*
*Regulatory Programs.*

[FR Doc.71–7828 Filed 6–3–71;8:54 am]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Social Security Administration

## [ 20 CFR Part 422 ]

[Reg. No. 22]

## ORGANIZATION AND PROCEDURES

## Hearings and Review—Materials Available to the Public

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the amendments to the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments to the regulations (1) expand and clarify the provisions relating to the procedures on hearings and appeals with respect to determinations under the Medicare program, (2) reflect that rights to hearings and appeals are applicable to determinations under the Black Lung benefit provisions of the Federal Coal Mine Health and Safety Act of 1969, and (3) add additional manuals and instructions to the list of materials which are available to the public for inspection and copying.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, DC 20201, within a period of 30 days from the date of publication in the FEDERAL REGISTER.

The proposed amendments are to be issued under the authority contained in sections 205, 1102, 1869, and 1871, 53 Stat. 1368, as amended, 49 Stat. 647, as amended, 79 Stat. 330, 331; section 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405, 1302, and 1395hh; 5 U.S.C. 552. Section 422.203(a) is also to be issued under section 413(b) of title IV of the Federal Coal Mine Health and Safety Act of 1969, 83 Stat. 794; 30 U.S.C. 923(b).

Dated: May 6, 1971.

[SEAL] ROBERT M. BALL,
*Commissioner of Social Security.*

Approved: May 28, 1971.

ELLIOT L. RICHARDSON,
*Secretary of Health,*
*Education, and Welfare.*

Regulations No. 22 of the Social Security Administration are amended as set forth below.

1. Subpart C is amended by revising §§ 422.201, 422.203, and 422.205 to read as follows:

### § 422.201 Material included in this subpart.

This subpart describes in general the procedures relating to hearings before a hearing examiner of the Bureau of Hearings and Appeals, review by the Appeals Council of the hearing examiner's decision or dismissal, and court review. It also describes the procedures for requesting such hearing or Appeals Council review, and for instituting a civil action for court review. For regulations relating to hearings under Part B of title XVIII where an individual enrolled under the supplementary medical insurance plan is dissatisfied with the carrier's determination denying a request for payment, or with the amount of payment, or when he believes that the request for payment is not being acted upon with reasonable promptness, see Subpart H of Part 405 of this chapter.

### § 422.203 Hearing before hearing examiner.

(a) *Right to request a hearing.* (1) After (i) a reconsidered or a revised determination of a claim for benefits or any other right under title II of the Social Security Act, or (ii) a reconsidered or a revised determination as to entitlement to benefits under Part A or Part B of title XVIII of the act, or (where the amount in controversy is $100 or more) as to the amount of benefits under Part A of such title XVIII, and party to such a determination may, pursuant to section 205, 221, or 1869 of the Act, as applicable, file a written request for a hearing on the determination. After a reconsidered determination of a claim for benefits under Part B of title IV (Black Lung benefits) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 921–924) a party to the determination may file a written request for a hearing on the determination.

(2) After (i) a reconsidered or revised determination that an institution, facility, agency, or clinic does not qualify as a provider of services, or (ii) a determination terminating an agreement with a provider of services, such institution, facility, agency, or clinic may, pursuant to section 1869 of the Act, file a written request for a hearing on the determination. After a reconsidered or revised determination that an independent laboratory or supplier of portable X-ray services does not meet the conditions for coverage of its services or a determination that it no longer meets such conditions has been made, such laboratory or supplier may, pursuant to § 405.1530 of this chapter, file a written request for a hearing on the determination. (For hearing rights of laboratories and suppliers of portable X-ray services, see § 405.1501(c).)

(b) *Request for hearing.* A request for a hearing under paragraph (a) of this section may be made on Form HA–501, "Request for Hearing," or by any other writing requesting a hearing. The request shall be filed at an office of the Social Security Administration, usually a district office or a branch office, or at the Veterans' Administration Regional Office in the Philippines, or with a hearing examiner or the Appeals Council. A qualified railroad retirement beneficiary may, if he prefers, file a request for a hearing under Part A of title XVIII with the Railroad Retirement Board. Form HA–501 may be obtained from any social security district office or branch office, from the Bureau of Hearings and Appeals, Social Security Administration, Washington, D.C. 20203, or from any other office where a request for a hearing may be filed. (See § 404.918 of this chapter.)

(c) *Decision or other action by hearing examiner.* Generally, the hearing examiner will either decide the case after

hearing (unless hearing is waived) or, if appropriate, dismiss the request for hearing. With respect to a hearing on a determination under paragraph (a)(1) of this section, the hearing examiner may certify the case with a recommended decision to the Appeals Council for decision. (See § 404.939 of this chapter.) If the determination on which the hearing request is based relates to the amount of benefits under Part A of title XVIII of the Act, the hearing examiner shall dismiss the request for hearing if he finds that the amount in controversy is less than $100. Hearing examiner decisions must be based on the evidence of record, under applicable provisions of the law and regulations and appropriate precedents.

**§ 422.205 Review by Appeals Council.**

Any party to a hearing examiner's decision or dismissal may request a review of such action by the Appeals Council. The Bureau of Health Insurance is a party to a hearing on a determination under § 422.203(a)(2) (see § 405.1532 of this chapter for parties to a hearing on such a determination). This request may be made on Form HA-520, "Request for Review of Hearing Examiner's Action," or by any other writing specifically requesting review. Form HA-520 may be obtained from any social security district office or branch office, from the Bureau of Hearings and Appeals, Social Security Administration, Washington, D.C. 20203, or at any other office where a request for a hearing may be filed.

(a) Whenever the Appeals Council reviews a hearing examiner's decision in accordance with § 404.947 of this chapter and the claimant does not appear personally or through representation before the Council in Washington, D.C., such review will be conducted by a panel of not less than two members of the Council designated in the manner prescribed by the Chairman or Deputy Chairman of the Council. In the event of disagreement between a panel composed of only two members, the Chairman or Deputy Chairman, or his delegate, who must be a member of the Council, shall participate as a third member of the panel. When the claimant appears in person or through representation before the Council in Washington, D.C., the review will be conducted by a panel of not less than three members of the Council designated in the manner prescribed by the Chairman or Deputy Chairman. Concurrence of a majority of a panel shall constitute the decision of the Appeals Council unless the case is considered as provided under paragraph (d) of this section.

(b) The denial or dismissal of a request for review or the refusal of a request to reopen a hearing examiner's or Appeals Council's decision concerning a determination under § 422.203(a)(1) as provided by §§ 404.947 and 404.952 of this chapter shall be by such member or members of the Appeals Council as may be designated in the manner prescribed by the Chairman or Deputy Chairman.

(c) A review or a denial of review of a hearing examiner's decision or a dismissal of a request for review with respect to (1) denial of certification or termination of an agreement of a provider of services, or (2) whether an independent laboratory or supplier of portable X-ray services does not meet or no longer meets the conditions for coverage of its services under title XVIII (see § 422.203(a)(2)) will be conducted by a panel of at least two members of the Appeals Council designated by the Chairman or Deputy Chairman and one person from the U.S. Public Health Service designated by the Surgeon General, Public Health Service, Department of Health, Education, and Welfare, or his delegate. This person shall serve on an ad hoc basis and shall be considered for this purpose as a member of the Appeals Council. Concurrence of a majority of the panel shall constitute the decision of the Appeals Council unless the case is considered as provided under paragraph (d) of this section.

(d) On call of the Chairman, or upon request of any of its members approved by the Chairman or Deputy Chairman, the Council may consider any case arising under paragraph (a), (b), or (c) of this section enbanc. A majority vote of the Appeals Council members present and voting is required for disposition of any case considered by the entire Council.

(e) For detailed information about the time and place for filing a request for review, the functions of the Appeals Council, procedures before the Appeals Council on review, and the rights of parties to the review, see §§ 404.938, 404.941–404.952, 404.954, 404.955, 405.1559, and 405.1561–405.1595 of this chapter.

2. Subpart E is amended by revising §§ 422.428, 422.430, and 422.432 to read as follows:

**§ 422.428 Where requests for information or records may be made.**

Requests for information, for copies of records, or to inspect or copy records may be made at any of the Social Security Administration district offices or branch offices. Similar requests relating to information or records available in the Bureau of Hearings and Appeals may be made at any of its field offices. For materials which are available or will be made available at district offices and branch offices, see § 422.430. Although all of the materials listed in § 422.430 are not maintained in all district offices and branch offices, any item listed will be obtained by an office and made available to the requester. For materials in Bureau of Hearings and Appeals field offices, see § 422.432. The materials available at district offices and branch offices are also available at the Social Security Administration headquarters, Social Security Building, 6401 Security Boulevard, Baltimore, MD 21235, and at the Washington Inquiries Section of the Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4193, 330 Independence Avenue SW., Washington, DC 20201. The materials available at the Bureau of Hearings and Appeals field offices are also available at the latter office. In addition, a request for information or a record may be submitted through any office of the Social Security Administration or to any employee of the Social Security Administration in the regular course of his conduct of official business.

**§ 422.430 Materials available at district offices and branch offices.**

(a) *Materials available for inspection.* The following are available or will be made available for inspection at the district offices and branch offices:

(1) Compilation of the Social Security Laws.

(2) The Public Information Regulation of the Department of Health, Education, and Welfare (45 CFR Part 5).

(3) Regulations of the Social Security Administration under the retirement, survivors, disability, and health insurance programs, i.e., Regulation No. 1 (Part 401 of this chapter), Regulations No. 4 (Part 404 of this chapter), Regulations No. 5 (Part 405 of this chapter), regulations under Part B of title IV (Black Lung Benefits) of the Federal Coal Mine Health and Safety Act of 1969, Regulations No. 10 (Part 410 of this chapter), and Regulations No. 22 (this Part 422).

(4) Social Security Rulings.

(5) Social Security Handbook.

(b) *Materials available for inspection and copying.* The following materials are available or will be made available for inspection and copying at the district offices and branch offices:

(1) Claims Manual of the Social Security Administration.

(2) Department Staff Manual on Organization, Department of Health, Education, and Welfare, Part 8, Chapter 8–000.

(3) Handbook for State Social Security Administrators.

(4) Disability Insurance State Manual.

(5) Parts 2 and 3 of the Part A Intermediary Manual (Provider Services under Medicare).

(6) Part 3 of the Part B Intermediary Manual (Physician and Supplier Services under Medicare).

(7) BHI (Bureau of Health Insurance) Intermediary Letters Related to Parts 2 and 3 of the Part A Intermediary Manual.

(8) BHI Intermediary Letters Related to Part 3 of the Part B Intermediary Manual.

(9) State Buy-In Handbook (State Enrollment of Eligible Individuals under the Supplementary Medical Insurance Program) and Letters.

(10) Group Practice Prepayment Plan Manual (HIM–8) and Letters.

(11) State Operations Manual (HIM–7).

(12) BHI Letters to State Agencies.

(13) Extended Care Facility Manual (HIM–12).

(14) Hearing Officers Handbook (Supplementary Medical Insurance Program—HIM–21).
(15) Hospital Manual (HIM–10).
(16) Home Health Agency Manual (HIM–11).
(17) Outpatient Physical Therapy Provider Manual (HIM–9).
(18) Provider Reimbursement Manual (HIM–15).
(19) Audit Program Manuals for Hospitals (HIM–16), Home Health Agencies (HIM–17), and Extended Care Facilities (HIM–18).
(20) Service Area Directory (including the addresses and geographic areas serviced by district offices, branch offices, regional offices, and payment centers).
(21) Indexes to the materials listed in paragraph (a) of this section and in this paragraph (b) and an index to the Bureau of Hearings and Appeals Handbook.

**§ 422.432 Materials in field offices of the Bureau of Hearings and Appeals.**

(a) *Materials available for inspection.* The following materials are available for inspection in the field offices of the Bureau of Hearings and Appeals:
(1) Title 45 of the Code of Federal Regulations (including the public information regulation of the Department of Health, Education, and Welfare).
(2) Regulations of the Social Security Administration (see § 422.430(a)(3)).
(3) Title 5, United States Code.
(4) Compilation of the Social Security Laws.
(5) Social Security Rulings.
(6) Social Security Handbook.
(b) *Handbook available for inspection and copying.* The Bureau of Hearings and Appeals Handbook is available for inspection and copying in the field offices of the Bureau of Hearings and Appeals.

[FR Doc.71–7808 Filed 6–3–71;8:52 am]

# DEPARTMENT OF TRANSPORTATION

## Hazardous Materials Regulations Board

## [ 49 CFR Parts 173, 177, 178 ]

[Docket No. HM–86; Notice No. 71–15]

## TRANSPORTATION OF HAZARDOUS MATERIALS

## Cargo Tank Use and Testing, Compressed Gases in Portable and Cargo Tanks, and Specification MC 331

The Hazardous Materials Regulations Board is considering amending §§ 173.33, 173.315, 177.824, 177.840, and 178.337 of the Department's Hazardous Materials Regulations. The proposed changes involve: (1) Editing to update the requirements of §§ 173.33 and 173.315 by using the more recently developed text from § 178.337; (2) removing duplicate text by replacement with references; (3) providing for a 5-year retest requirement for MC 331 cargo tanks; (4) canceling obsolete one-time test requirements for MC 330 and MC 331 cargo tanks; and (5) modifying some requirements for safety relief devices and remotely controlled internal valves.

The proposal is based, in part, on a petition by the Compressed Gas Association regarding a 5-year retest cycle for MC 331 cargo tanks and improved safety relief device criteria for use and installation on cargo and portable tanks.

The proposed changes to the following sections are intended to be editorial:

Sec.
173.33(g), introductory text;
173.315(a)(1), Note 2 and Note 4;
173.315(h), introductory text;
173.315(i) (12) and (13);
178.337–1(e);
178.337–2(c);
178.337–9 (a) and (b);
178.337–11 (a) (2), (4), and (b);
178.337–14 (a) and (b);
178.337–15(a).

The proposed changes to the following sections would consist generally of transferring text from § 178.337 to §§ 173.33 and 173.315: § 173.33(g) (1), (2), (9), § 173.33(i) (1), (3), § 173.315(h)(2), and § 173.315(i) (1) through (11).

It is proposed to amend § 173.33(e) to cover cargo tanks on the basis of design rather than use. Section 173.33(e)(1) would require a 5-year retest cycle for MC 331 cargo tanks for which there are currently no periodic retest requirements; paragraph (e)(5) is proposed to be deleted, because in the Board's opinion, this provision is now obsolete. Testing of non-specification cargo tanks is covered by special permit and § 177.824 (c)(4). Section 173.315(h) (3) and (4) and § 178.337–11(a)(3) would be changed to require orifice sizes based on a dimensional measurement of the opening. Section 173.315(i) would be amended by deleting the present table in paragraph (i)(2) by replacing it with general criteria equally applicable to all gases (see proposed § 173.315(i)(3) herein). Section 177.824 would be amended by the deletion of obsolete testing requirements in paragraphs (a), (e), (f), and (h). However, some of the present reporting requirements would be retained. Section 17.824 would be amended to correct a reference in paragraph (i) and to reduce the retention time for certain records. Section 177.840 would be amended by adding a new paragraph (g), to require that remotely controlled internal valves be in a closed position during transportation. Section 178.337–11(c) would be amended to apply to vapor discharge openings as well as liquid openings in tanks, consistent with conditions prescribed for cargo tanks authorized by special permits. Section 178.337–11(c)(5) would be revised to raise the melting point maximum of fusible elements to 250° F., and to more clearly specify the location of heat actuated elements on emergency control devices. Section 178.337–15(c) would be amended by addition of a cross reference to § 173.315(h) (3) and (4) and would no longer contain an exemption for carbon dioxide and nitrous oxide. The Board is proposing this latter change because it is unable to establish any basis for continuation of this exemption.

The changes proposed by the Board are intended to improve regulatory language and standardize containment requirements for gases in MC 330 and MC 331 cargo tanks. The Board believes that the changes proposed have merit and that safety in transportation of gases will be enhanced by their adoption.

Several petitions were received requesting other changes that are not included in this notice:

(1) A request was made to change § 178.337–2(a)(4), stating that the current requirement that the final rolling of shell material be in the circumferential orientation of the tank shell was for use only with quenched and tempered steel (QT). The Board is of the opinion that the rule provides safety and is not unnecessarily burdensome. Ordinarily, flat steel is rolled lengthwise of the piece, and for practical reasons, the length of the piece is made the circumferential orientation of the tank. However, if material is cross-rolled (a practice not necessarily limited to QT steel), then the rule becomes important.

(2) A change was requested in § 178.337–9(b)(1). The petitioner contends the present rule implies that threaded fittings are not acceptable, but in the opinion of the petitioner, should be acceptable. The rule requires use of welded fittings wherever possible. Threaded fittings are not to be used if connection by a welded joint is possible. The petitioner suggests stronger piping be used for threaded fittings to offset any strength loss caused by the cutting of threads. This would, of course, be satisfactory for the bursting strength of pipe. But the pipe failures that have come to our attention have been cracks or breakage at threads, generally attributable to fatigue induced by jarring, vibration, or flexing, and not due to lack of strength to resist bursting. The Board believes that welded fittings are more desirable under continued, constant use.

(3) A change in § 178.337–9(b)(6) was also requested, to provide for any number of groupings of pipes, fittings, and openings on a cargo tank. The present rule requires openings to be grouped in one location. It is the Board's opinion that a rule permitting several openings in a tank shell in a variety of locations would not provide as adequate a safeguard as is now the case. The principle in such matters should be to reduce the number of openings, and to gather those necessary into one protected area.

(4) An amendment to § 178.337–11(c) was requested to discontinue requiring use of remotely controlled internal valves in openings under 2 inches in diameter. Presumably such openings would be protected by excess flow valves. Before full consideration can be given to this request, specific data must be presented as to why such remotely controlled valves are not necessary in smaller lines, and

as to the degree to which excess flow valves in smaller size vapor and liquid openings may be expected to assure the necessary protection.

(5) A petition was made to include valves operated by electromechanical means in § 178.337–11(c)(4). This proposal has not been included in this document. The Board will give full consideration to such a proposal if it can be shown that such valves incorporate a fail-safe mechanism that would result in a valve being closed in the event of loss of electrical power.

(6) A change was requested in § 178.337–14(a) to permit location of a rotary gage on the rear head of cargo tanks of 3,500 gallon capacity or less. The current requirement for a midpoint location, longitudinally and laterally, is to insure against overfilling. Location of the inner end of a rotary gage tube near the rear of a vehicle frequently could result in overfilling. The petitioner presented no data and did not suggest any means whereby overfilling would be prevented. The Board believes that to change the rule as proposed could lead to a serious reduction in safety in transportation of compressed gases.

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 173, 177, and 178 as follows:

I. In Part 173:

(A) In § 173.33, the introductory text of paragraph (e) and paragraphs (e)(1), (g)(1), (2), (9), (i)(1) and (3) would be amended; the note following paragraph (i)(3) and paragraphs (e)(5) and (g)(5) would be canceled as follows:

**§ 173.33 Cargo tank use authorization.**

* * * * *

(e) A cargo tank designed for a service pressure of 100 p.s.i.g. or higher must not be used unless it has successfully passed the following tests, as applicable:

(1) Each DOT Specification MC 330 or MC 331 (§ 178.337 of this chapter) cargo tank must be tested at least once every 5 years in accordance with subparagraphs (2), (3), and (4) of this paragraph. Tanks and safety valves of cargo tanks used for the transportation of chlorine must be retested at least once every 2 years.

* * * * *

(5) [Canceled.]

* * * * *

(g) On tanks used for compressed gases except chlorine, the bursting strength of all piping, pipe fittings, hose, and other pressure parts except safety relief devices must be at least four times the design pressure of the tank. In addition, the bursting strength may not be less than four times any higher pressure to which each pipe, pipe fittings, hose, and other pressure part may be subjected in service by the action of a pump or other device. For tanks used in transporting chlorine, see subparagraphs (9) through (11) of this paragraph.

(1) Welded pipe joints must be used wherever possible. Where copper tubing is permitted, joints must be brazed or be of equally strong metal union type. The melting point of brazing material must be no lower than 1,000° F. The method of joining must not decrease the strength of tubing and pipe, such as by the cutting of threads. Fittings must be extra heavy. Nonmalleable metals must not be used in the construction of valves or fittings.

(2) Each hose coupling must be designed for a pressure at least 20 percent in excess of hose design pressure and so there will be no leakage when connected.

* * * * *

(5) [Canceled]

* * * * *

(9) No piping, hose, or other means of loading or unloading may be attached to the valves of a cargo tank containing chlorine except at the time of loading or unloading. No hose, piping, or tubing used for loading or unloading may be mounted or carried on the motor vehicle. Except at the time of loading or unloading, the pipe connections of the angle valves must be closed with screw plugs which are chained or otherwise fastened to prevent misplacement.

* * * * *

(i) * * *

(1) Excess-flow valves must close automatically at the rated flow of gas or liquid as specified by the valve manufacturer. The flow rating of the piping, fittings, valves, and hose on both sides of the excess-flow valve must be greater than that of the excess-flow valve. If branching or other necessary restrictions are incorporated in the system so that flow ratings are less than that of the excess-flow valve at the tank, additional excess-flow valves must be located where the flow rates are reduced.

* * * * *

(3) Filling and discharge lines must be provided with manual shutoff valves located as close to the tank as practicable. However, when a self-closing internal shutoff valve is used, a manual shutoff valve must be located in the line ahead of the hose connection. The use of back flow check valves or excess-flow valves to satisfy the requirements of this rule and of paragraph (i) of this section with one valve is prohibited.

NOTE: [Canceled]

* * * * *

(B) In § 173.315(a)(1) Table Notes 2 and 4 would be amended; the introductory text of paragraph (h) and subparagraphs (h)(2), (3), (4) would be amended; paragraph (i) would be amended.

**§ 173.315 Compressed gases in cargo tanks and portable tank containers.**

(a) * * *

(1) * * *

Table * * *

NOTE 2: See § 173.32 for authority to use other portable tanks.

* * * * *

NOTE 4: In the design of tanks for sulfur dioxide and chlorine a corrosion factor must be applied as required by §§ 178.245–3(a) and 178.337–3(a) of this chapter.

* * * * *

(h) Each cargo tank and portable tank, except tanks filled by weight, must be equipped with one or more of the following gaging devices which indicate accurately the maximum permitted liquid level. Additional gaging devices may be installed but may not be used as primary controls for filling of cargo tanks and portable tanks. Gage glasses are not permitted on any cargo tank or portable tank.

* * * * *

(2) If the primary gaging device is adjustable, it must be capable of adjustment so that the end of the tube will be in the location specified in subparagraph (3) of this paragraph for at least one of the ladings to be transported, at a filling level corresponding to an average loading temperature. Exterior means must be provided to indicate this adjustment. The gaging device should be legibly and permanently marked in increments not exceeding 20° F. (or not exceeding 25 p.s.i.g. on tanks for carbon dioxide or nitrous oxide), to indicate the maximum levels to which the tank may be filled with liquid at temperatures above 20° F. If it is not practicable to mark the gaging device, this information must be legibly and permanently marked on a plate affixed to the tank adjacent to the gaging device. (Table remains the same.)

(3) A dip tube gaging device consists of a pipe or tube with a valve at its outer end, with its intake limited by an orifice not larger than 0.060 inch in diameter. If a fixed length dip tube is used the intake must be located midway of the tank both longitudinally and laterally and at maximum permitted filling level. In tanks for liquefied petroleum gases, the intake must be located at the level reached by the lading when the tank is loaded to maximum filling density at 40° F.

(4) Openings for pressure gages must be restricted at or inside the tank by orifices no larger than 0.060 inch in diameter.

(i) *Safety relief devices.* Each tank must be provided with one or more safety devices which, unless otherwise specified, must be safety relief valves of the spring-loaded type. Each device must be arranged to discharge upward and without obstruction to the outside of the protective housing to prevent any impingement of escaping gas upon the tank. For chlorine tanks, see special protective housing requirements as set forth in the applicable specification.

(1) Safety relief valves on any tank must have a total relieving capacity as determined by the flow formulae contained in the CGA Pamphlet S–1.2. As an alternative, total relieving capacity may be determined by the Fetterly's formula[1] for Specification MC 330 cargo

[1] Copies of Fetterly's formula dated Nov. 27, 1928, may be obtained from the Bureau of Explosives.

tanks. Safety relief valves must have a total relieving capacity sufficient to prevent a maximum pressure in the tank of more than 120 percent of the design pressure. For an insulated tank the required relieving capacity of the relief valves must be the same as for an uninsulated tank, unless the insulation will remain in place and will be effective under fire conditions. In this case, the insulated tank must be covered by a sheet metal jacket of not less than 16 gage nominal thickness.

(2) Each safety relief valve must be arranged to minimize the possibility of tampering. If the pressure setting or adjustment is external to the valve, the safety relief valve must be provided with means for sealing the adjustment and must be sealed.

(3) Safety relief valves on each tank must be set to start-to-discharge at a pressure no higher than 110 percent of the tank design pressure and no lower than the pressure specified in subparagraph (a)(1) of this section for the gas transported.

(4) Each safety relief valve must be plainly and permanently marked with the pressure in p.s.i.g. at which it is set to discharge, with the actual rate of discharge of the device in cubic feet per minute of the gas or of air at 60° F. and atmospheric pressure, and with the manufacturer's name or trade name and catalog number. The start-to-discharge value must be visible after the valve is installed. The rated discharge capacity of the device must be determined at a pressure of 120 percent of the design pressure of the tank.

(5) Each safety relief valve must have direct communication with vapor space in the tank.

(6) Connections to safety relief valves must be of sufficient size to provide the required rate of discharge through the safety relief valves.

(7) No shutoff valve may be installed between a safety relief valve and the tank, except in cases where two or more safety relief valves are installed on the same tank, and one or more safety shutoff valves are arranged to always provide the required relief capacity through at least one of the safety relief valves.

(8) Each safety relief valve outlet must be provided with a protective device to prevent the entrance and accumulation of dirt and water. This device must not impede flow through the valve.

(9) On tanks for carbon dioxide or nitrous oxide, each safety relief device must be installed and located so that the cooling effect of the contents will not prevent the effective operation of the device. In addition to the required safety relief valves, these tanks may be equipped with one or more pressure controlling devices.

(10) Each tank for carbon dioxide also may be equipped with one or more frangible disc devices set to function at a pressure not over two times nor less than 1.3 times the design pressure of the tank.

(11) Each portion of connected liquid piping or hose that can be closed at both ends must be provided with a safety relief valve without an intervening shutoff valve.

(12) Subject to conditions of subparagraph (a)(1) of this section for the methyl chloride and sulfur dioxide optional portable tanks, one or more fusible plugs approved by the Bureau of Explosives may be used in place of safety relief valves of the spring-loaded type. The fusible plug or plugs must be in accordance with CGA Pamphlet S–1.2, to prevent a pressure rise in the tank of more than 120 percent of the design pressure. If the tank is over 30 inches long, each end must have the total specified safety discharge area.

(13) Safety relief valves on chlorine tank motor vehicles must conform with the standard of The Chlorine Institute, Inc., Type 1½ JQ225 Dwg. H51970 dated October 7, 1968.

II. In Part 177.

(A) In § 177.824, paragraph (a)(1) and paragraphs (e), (f), (h), and (i) would be amended to read as follows:

**§ 177.824 Retesting and inspection of cargo tanks.**

(a) * * *

(1) Every cargo tank, except specifications MC 330 and MC 331 cargo tanks, must comply with the testing requirements prescribed in paragraphs (a), (b), (c), and (d) of this section. Every cargo tank must be marked in accordance with the marking requirements of paragraph (h) of this section.

* * * * *

(e) *Compressed gas cargo tanks, specifications MC 330 and MC 331.* Every cargo tank constructed in compliance with specification MC 330 or MC 331 (§ 178.337 of this chapter) must be inspected and tested in accordance with § 173.33 of this chapter.

(f) *Reporting requirements.* Each motor carrier shall file a complete listing of MC 330 and MC 331 cargo tanks he has in service, with the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20591. Each motor carrier, when he acquires or places in service any MC 330 or MC 331 cargo tank (other than cargo tanks used in interchange service which are reported by another carrier), shall file a supplemental report with that Bureau.

(1) The initial listing and each subsequent report must include the following information:

(i) The carrier's name, address, and telephone number.

(ii) Each cargo tank identified as follows:

(a) Carrier's equipment number;
(b) Manufacturer's name;
(c) Manufacturer's serial number;
(d) Specification MC 330 or MC 331;
(e) "QT" (Quenched and tempered) or "NQT" (Not quenched and tempered).

(2) A copy of each report required by this paragraph must be retained by the carrier during the period the tank is in the carrier's service and for 1 year thereafter.

* * * * *

(h) *Test date markings.* The month and year of the last test must be durably and legibly marked on the tank in letters not less than 1¼ inches high, near the metal certification plate.

(i) *Withdrawal of certification.* If, as the result of an accident or for any other reason a cargo tank no longer meets the applicable specification, the carrier shall remove the metal certification plate or make it illegible (see § 173.24(c)(1)(v) of this chapter). The details of the conditions necessitating withdrawal of the certification must be recorded and signed on the written certificate for that cargo tank. The vehicle owner shall retain the certificate for at least 1 year after withdrawal of the certification.

(B) In § 177.840, paragraph (g) would be added to read as follows:

**§ 177.840 Compressed gases.**

* * * * *

(g) Each liquid discharge valve on a cargo tank must be closed during transportation except during loading and unloading.

III. In Part 178:

In § 178.337–1 paragraph (e) would be amended; in § 178.337–2 paragraph (c) would be amended; in § 178.337–4 paragraph (b) would be amended; in § 178.337–8 paragraph (b) would be amended; in § 178.337–9 paragraphs (a) and (b) would be amended, paragraphs (c) and (d) would be redesignated (d) and (e) respectively, a new paragraph (c) would be added; in § 178.337–11 paragraph (a) (2), (3) would be amended, subparagraph (a)(4) and Note 1 following paragraph (b) would be canceled, paragraph (b), the introductory text of paragraph (c) and paragraph (c)(5) would be amended, paragraph (c)(6) would be added; in § 178.337–13 paragraphs (a) and (b) would be amended; in § 178.337–14 paragraphs (a), (b), (c) would be amended; in § 178.337–15 paragraph (a) would be amended to read as follows:

**§ 178.337 Specification MC 331; cargo tanks constructed of steel, primarily for transportation of compressed gases as defined in the Compressed Gas Section.**

**§ 178.337–1 General requirements.**

* * * * *

(e) *Insulation for carbon dioxide, chlorine, and nitrous oxide tanks.* See § 173.33(j) of this chapter.

* * * * *

**§ 178.337–2 Material.**

* * * * *

(c) *For anhydrous ammonia.* See § 173.33(h)(1) of this chapter.

* * * * *

**§ 178.337–4 Joints.**

* * * * *

(b) Welding procedure and welder performance tests must be made annu-

ally in accordance with section IX of the ASME Code. In addition to the essential variables named therein, the following must be considered as essential variables: Number of passes; thickness of plate; heat input per pass; and manufacturer's identification of rod and flux. When fabrication is done in accordance with Part UHT of the ASME Code, filler material containing more than 0.08 percent vanadium must not be used. The number of passes, thickness of plate, and heat input per pass may not vary more than 25 percent from the procedure or welder qualifications. Records of the qualifications must be retained for at least 5 years by the tank manufacturer and must be made available to duly identified representatives of the Department of Transportation and the owner of the tank.

* * * * *

§ 178.337–8 Outlets.

* * * * *

(b) *Chlorine tank valves.* See §§ 173.33 (g)(10) and (i)(4) of this chapter. Regarding chlorine tank outlets, see also § 178.337–1(c)(2).

* * * * *

§ 178.337–9 Safety relief devices, valves and connections.

(a) See §§ 173.33(g), 173.301(d), and 173.315(i) of this chapter.

(b) Each valve must be designed, constructed, and marked for a rated pressure not less than the tank design pressure at the temperature expected to be encountered.

(c) Piping and fittings must be grouped in the smallest practicable space and protected from damage as required by § 178.337–10.

* * * * *

§ 178.337–11 Emergency discharge control.

(a) * * *

(2) Excess-flow valve design and operation. See § 173.33(i) of this chapter.

(3) *Chlorine tanks.* See § 173.33(i)(4) of this chapter.

(4) [Canceled]

(b) Shutoff valves. See § 173.33(i)(3) of this chapter.

NOTE 1: [Canceled]

(c) Every vapor and liquid discharge opening in tanks for flammable liquids, flammable compressed gases, and for anhydrous ammonia must be fitted with a remotely controlled internal shutoff valve. Each valve must conform to the following requirements:

* * * * *

(5) On a tank over 3,500 gallons water capacity, each internal shutoff valve must be provided with remote means of automatic closure, both mechanical and thermal, that are installed at the ends of the tank in at least two, diagonally opposite, locations. If the discharge connection at the tank is not in the general vicinity of one of the two locations specified above, one additional fusible element must be installed so that heat from a fire in that area will activate the emergency control system. Fusible elements used may not have a melting point exceeding 250° F.

(6) On a tank of 3,500 gallons water capacity or less, each internal shutoff valve must be provided with at least one remote control station, and the actuating means may be mechanical. This station must be at one end of the tank, away from the discharge connection area.

§ 178.337–13 Supporting and anchoring.

* * * * *

(a) A cargo tank that is not permanently attached to or integral with a vehicle chassis must be secured by turnbuckles or equally efficient securing devices for drawing the tank down tight on the frame. Means must be provided to present relative motion between the tank and the vehicle chassis when the vehicle is in operation.

(b) Any tank motor vehicle designed and constructed so that the cargo tank constitutes in whole or in part the stress member used in place of a frame must have the tank supported by external cradles. Cargo tanks mounted on frames must be supported by external cradles or longitudinal members. The cradles, where used, must subtend at least 120 degrees of the shell circumference. The design calculations for the supports must include beam stress, shear stress, torsion stress, bending moment and acceleration stress for the loaded vehicle as a whole, using a factor of safety of four, based in the ultimate strength of the material and on two "g" of longitudinal and lateral loading and three times static weight in vertical loading (see Appendix G of the ASME Code).

* * * * *

§ 178.337–14 Gaging devices.

(a) *Level gaging devices.* See § 173.315 (h) of this chapter.

(b) *Pressure gages.* See § 173.33(g)(8) of this chapter.

(c) *Orifices.* See § 173.315(h)(3) and (4) of this chapter.

§ 178.337–15 Pumps and compressors.

(a) See § 173.33(g)(7) and (11) of this chapter.

* * * * *

Interested persons are invited to give their views on the proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before August 10, 1971, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831–835 of title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657)

Issued in Washington, D.C. on May 28, 1971.

W. F. REA III,
*Rear Admiral, U.S. Coast Guard, By direction of Commandant U.S. Coast Guard.*

KENNETH L. PIERSON,
*Acting Director, Bureau of Motor Carrier Safety, Federal Highway Administration.*

[FR Doc.71–7769 Filed 6–3–71;8:49 am]

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## Office of Pipeline Safety

## [ 49 CFR Part 192 ]

[Notice 71–2; Docket No. OPS–10]

## MINIMUM FEDERAL SAFETY STANDARDS FOR GAS PIPELINES

### Deactivation of Service Lines

The Department of Transportation is considering an amendment to the minimum Federal safety standards for gas pipelines that would require certain steps be taken to prevent the unauthorized introduction of gas into inactive service lines. The amendment would also make several minor changes in terminology in the affected regulation to provide more consistent use of language.

During the past winter two serious gas explosions resulting from similar causes have demonstrated the need for an amendment to the minimum Federal safety standards. The National Transportation Safety Board, in making a recommendation on the subject, described the two accidents as follows:

In the first, 12 people were killed and more than 60 injured when a restaurant owner in New York City, on December 11, 1970, allegedly opened a shutoff valve located outside in the street, allowing gas to flow through unconnected house piping into the building where the gas exploded. In the second case, similar circumstances existed. On January 4, 1971, in Miami Beach, Fla., the new owner of a restaurant reportedly opened the valve at the gas meter behind the building which supplied his premises. The meter valve had been turned off by the gas utility at the request of the old owner. When the gas valve for the restaurant was turned on, the valves of the two other meters located behind the building were also opened. The gas lines leading from one of the other meters had been disconnected previously, but were not capped. When the valve for this meter was opened, it allowed gas to flow into the building. An explosion resulted which killed one person and injured 34 others.

These two occurrences clearly demonstrate the need for regulatory action in this regard.

The proposed rule making would involve a revision of § 192.727 of the minimum Federal standards and the addition of two new paragraphs. One new paragraph would require the locking of valves or physical disconnection and

sealing of the service line. When deactivation is for an indefinite period or for more than 1 year, the other new paragraph would require removal of the meter. Other changes to this section would involve use of the word "pipeline" as opposed to the words "facility" or "line".

Interested persons are invited to participate by submitting written comments on the proposal contained in this notice. Communications should identify the regulatory docket and notice numbers and be submitted in duplicate to the Office of Pipeline Safety, Department of Transportation, Washington, D.C. 20590. Communications received before July 15, 1971, will be considered before taking final action on the notice. All comments will be available for examination by interested persons at the Office of Pipeline Safety before and after the closing date for comments. The proposal contained in this notice may be changed in the light of comments received.

In consideration of the foregoing, it is proposed to amend § 192.727 of Title 49 of the Code of Federal Regulations to read as follows:

**§ 192.727 Abandonment or deactivation of pipelines.**

(a) Each operator shall provide in its operating and maintenance plan for abandonment or deactivation of pipelines, including provisions for meeting each of the requirements of this section.

(b) Each pipeline abandoned in place, or, except when undergoing maintenance, each pipeline not subject to gas pressure, must be disconnected from all sources and supplies of gas, purged of gas, and the ends sealed. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

(c) Whenever service to a customer is discontinued, one of the following must be complied with:

(1) The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator.

(2) The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed.

(d) Each customer meter on an inactive service line must be removed and the connection to the gas supply sealed, unless the operator has been requested to reactivate the service line in less than 1 year. This paragraph does not apply to shutting off gas for short periods during a changeover of customers.

(e) If air is used for purging, the operator shall ensure that a combustible mixture is not present after purging.

(f) Each abandoned vault must be filled with a suitable compacted material.

This notice is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. § 1671 et seq.), Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1) and the delegation of authority to the Director, Office of Pipeline Safety, dated November 6, 1968 (33 F.R. 16468).

Issued in Washington, D.C., on May 28, 1971.

JOSEPH C. CALDWELL,
*Acting Director,*
*Office of Pipeline Safety.*

[FR Doc.71-7792 Filed 6-3-71;8:51 am]

# INTERSTATE COMMERCE COMMISSION

## [ 49 CFR Part 1332 ]

[Ex Parte No. 276]

## FILING OF SURFACE MAIL TRANSPORTATION SERVICE ORDERS OR DETERMINATIONS AND CONTRACTS

### Request for Public Advice

MAY 12, 1971.

The Commission has received a request from the Post Office Department for reconsideration of certain portions of the order entered in this proceeding on March 23, 1971, 36 F.R. 6425. The Commission's order adopted new regulations to carry out its statutory responsibility under the Postal Reorganization Act, Public Law 91-375, 84 Stat. 719, enacted August 12, 1970.

In seeking reconsideration, the Department has requested changes in the newly adopted regulations governing the filing of mail transportation contracts with the Commission. The requested changes would allow the filing of photocopies of contracts, in lieu of actually signed copies, and permit alteration of the contract numbering system used by the Commission to correspond to the system used by the Department in its internal operations. All of these changes involve Part 1332 of Subchapter D of Chapter X of Title 49, Code of Federal Regulations.

The Department requests that the following changes be made in these provisions:

1. The last sentence of paragraph (b) of § 1332.3 should be revised to read as follows: "Both copies may be photocopies, provided that they both shall be photocopies of the signed original, and that they both clearly indicate the names and when applicable, the official titles of the officers or officials executing the document on behalf of the respective contracting parties."

2. Paragraph (d) of § 1332.3 should be revised by deleting the words in parenthesis and adding the following language to the end of the paragraph: "* * * or in such other manner as the U.S. Postal Service and this Commission mutually agree."

3. Paragraph (e) of § 1332.3 should be revised to read as follows:

(e) *Renewal and replacement contracts.* Copies of all orders issued by the U.S. Postal Service terminating contracts prior to their normal expiration date shall be filed with this Commission. Copies of all contracts renewing or replacing prior contracts shall also be filed. Such orders and contracts will show the numbers of the prior contracts which are thereby terminated, renewed or replaced.

Any persons interested in the matters involved in this petition may, on or before 20 days from the date of publication of this notice in the FEDERAL REGISTER, file replies to the petition supporting or opposing the proposed modification. An original and 15 copies of such replies must be filed with the Commission and parties must show service of two copies upon the Assistant General Counsel, Transportation, Post Office Department, Washington, D.C. 20260. Thereafter, the Commission will proceed to dispose of the matter, observing any additional requirements that appear warranted to assure due process of law.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.71-7885 Filed 6-3-71;8:52 am]

# Notices

## DEPARTMENT OF STATE

### Agency for International Development

[Delegation of Authority No. 91]

### OVERSEAS PRIVATE INVESTMENT CORPORATION

### Delegation of Authority Relating to Certain Loans

1. Pursuant to the authority delegated to me by Delegation of Authority No. 104, as amended, from the Secretary of State, dated November 3, 1961 (26 F.R. 10608), I hereby redelegate to the Overseas Private Investment Corporation, the following:

a. Authority pursuant to section 104 (e) of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), as amended, to authorize, negotiate, execute, amend, and implement loan agreements and other related agreements, to make collections under such loan agreements, to make related approvals and determinations, and to take all appropriate action in the exercise of the authority delegated hereby.

b. The authority delegated herein shall extend to loans heretofore entered into under section 104(e) of Public Law 480 by the Agency for International Development and the Export-Import Bank of Washington.

2. The authority delegated herein may be redelegated successively and may be exercised by persons who are performing the functions of designated officers in an acting capacity. The authority delegated herein may also be redelegated to the Director or Deputy Director of any United States A.I.D. Mission abroad or to the principal diplomatic officer in any foreign country.

3. Notwithstanding any provision of this Delegation of Authority, the Administrator, A.I.D., may, through any A.I.D. officer, exercise concurrently any function delegated herein to the Overseas Private Investment Corporation.

4. This delegation of authority supersedes paragraph 1, D of A.I.D. Delegation of Authority No. 39, as amended.

5. This Delegation of Authority shall be effective immediately.

Dated: May 24, 1971.

MAURICE J. WILLIAMS,
*Acting Administrator.*

[FR Doc.71-7754 Filed 6-3-71;8:47 am]

## DEPARTMENT OF JUSTICE

[Directive No. 1-71]

### DEPUTY ASSISTANT ATTORNEYS GENERAL, INTERNAL SECURITY DIVISION

### Delegation of Authority

Redelegation of authority with respect to application for orders compelling testimony or production of evidence by witnesses.

By virtue of the authority vested in me by section 0.178 of Title 28 of the Code of Federal Regulations, the authority delegated to me by §§ 0.175, 0.176, and 0.177 of that title is hereby redelegated to the Deputy Assistant Attorneys General of the Internal Security Division, to be exercised by any of them solely during my absence from the City of Washington.

This directive shall become effective on May 25, 1971.

Dated: May 25, 1971.

ROBERT C. MARDIAN,
*Assistant Attorney General.*

[FR Doc.71-7750 Filed 6-3-71;8:47 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### CALIFORNIA

### Notice of Termination of Proposed Withdrawal and Reservation of Lands

MAY 27, 1971.

Notice of a Forest Service, U.S. Department of Agriculture application Sacramento 047049 for withdrawal and reservation of lands for the Bear Valley Administrative Site was published as FEDERAL REGISTER Document 57-7081 on page 6995 of the issue for August 30, 1957. The applicant agency has canceled its application insofar as it affects the lands described below.

Therefore, pursuant to the regulations in 43 CFR Subpart 2350, such lands, at 10 a.m. on July 6, 1971, will be relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

MOUNT DIABLO MERIDIAN

STANISLAUS NATIONAL FOREST

*Administrative Site—Bear Valley*

T. 7 N., R. 18 E.,
Sec. 18, SW¼NE¼.

The area described aggregates 40 acres in Alpine County.

ELIZABETH H. MIDTBY,
*Chief,*
*Lands Adjudication Section.*

[FR Doc.71-7745 Filed 6-3-71;8:46 am]

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[Sacramento 654]

### CALIFORNIA

### Order Providing for Opening of Public Lands

MAY 27, 1971.

1. In exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, the following described lands have been conveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 41 N., R. 7 W.,
Sec. 4, SW¼NW¼, N½SW¼, NW¼SE¼;
Sec. 7, Lots 1, 2, 3, 4, E½W½;
Sec. 8, W½NE¼.
T. 41 N., R. 8 W.,
Sec. 13, N½, SW¼.

The area described aggregates 1,040.28 acres.

2. The land is located in Scott Valley, Siskiyou County, and is accessible from Yreka to the northeast, Somes Bar to the west, Trinity Center to the south, and Gazelle to the east. The topography ranges from gentle to steep slopes. The soil on the hills is shallow with a scattered overburden of rock and gravels from light to heavy on some on the tracts. The vegetation consists of cut over stands of Ponderosa pine on portions of the floor of the gulch. The north slopes are dense brush-covered hillsides consisting of buck brush, scrub white oaks, scattered mountain mahogany and junipers.

3. Subject to valid existing rights and the requirements of applicable law, the lands are hereby opened to application, petition, location, and selection including location under the U.S. mining laws. All valid applications received at or prior to 10 a.m., July 6, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, E-2807 Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

ELIZABETH H. MIDTBY,
*Chief,*
*Lands Adjudication Section.*

[FR Doc.71-7746 Filed 6-3-71;8:47 am]

[New Mexico 13339]

## NEW MEXICO

### Designation of Organ Mountain Recreation Lands

MAY 28, 1971.

Pursuant to the authority in 43 CFR, Subpart 2070 and the authorization from the Director dated May 13, 1971, I hereby designate the public lands in the following described areas as the Organ Mountain Recreation Lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 22 S., R. 3 E.,
Sec. 10, SE¼SE¼;
Sec. 12, lots 15 to 20, inclusive;
Sec. 13, lots 3, 4, NE¼, E½NW¼ and S½;
Sec. 14, lots 8 to 16, inclusive and W½;
Secs. 15 and 22;
Sec. 23, lots 7, 8, 9, 10, and E½E½;
Sec. 24;
Sec. 25, E½, E½W½, and W½W½ excluding patented mining claims;
Sec. 26, lots 1, 2, 3, 4, E½E½ excluding mining claims and W½;
Secs. 27, 34, and 35;
Sec. 36, lots 1, 2, and 3.
T. 23 S., R. 3 E.,
Secs. 3, 9, and 10;
Sec. 11, lots 1, 2, W½ lot 4 and lot 8;
Sec. 14, lot 5;
Sec. 15;
Sec. 23, lots 1, 2, 3, 4, 9, SE¼NE¼ and SW¼SW¼;
Sec. 24, SW¼NE¼, E½NW¼, SW¼NW¼, NE¼SW¼ and W½SE¼;
Sec. 25, SE¼SE¼;
Sec. 26, W½W½ and SE¼SW¼;
Secs. 27 and 34;
Sec. 35, W½.
T. 24 S., R. 3 E.,
Secs. 1, 3, and 10;
Sec. 11, W½E½ and W½;
Sec. 12, N½ and S½S½;
Sec. 13;
Sec. 14, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Secs. 15 and 22;
Sec. 23, W½NE¼, NW¼ and S½;
Sec. 24, NE¼, E½NW¼, NW¼NW¼, and S½;
Secs. 25, 26, and 27;
Sec. 34, NE¼, W½, E½SE¼, and SW¼SE¼;
Sec. 35, N½ and SE¼.
T. 25 S., R. 3 E.,
Sec. 3.
T. 22 S., R. 4 E.,
Sec. 6, lots 16, 17, 20, 21, 22, and 23;
Secs. 7 and 8;
Sec. 16, lot 1, W½NE¼, NW¼, and SE¼;
Secs. 17 and 18;
Sec. 20, N½ and SW¼;
Secs. 32 and 33;
Sec. 34, NE¼ and S½;

The areas described aggregate approximately 27,167 acres in Dona Ana County.

The Organ Mountain Recreation Lands are a "Class II—General Outdoor Recreation Area" under the Bureau of Outdoor Recreation system of classification.

W. J. ANDERSON,
*State Director.*

[FR Doc.71-7747 Filed 6-3-71;8:47 am]

## WYOMING

### Notice of Restricted Vehicle Use; Closure Order

Notice is hereby given in accordance with title 43 CFR 6014.4, that the following described public lands under the administration of the Bureau of Land Management, are closed to unauthorized motor vehicles:

SIXTH PRINCIPAL MERIDIAN, WYOMING

NATRONA COUNTY

T. 31 N., R. 78 W.,
Sec. 6, S½SW¼;
Sec. 7, SW¼NE¼, NW¼, and N½SW¼.
T. 31 N., R. 79 W.,
Sec. 1, SE¼SE¼, E½SW¼SE¼, and that portion of the W½SW¼SE¼ lying east of the loop road;
Sec. 12, NE¼, E½SE¼NW¼, SW¼SE¼NW¼, and that portion of the NW¼SE¼NW¼ lying east of the loop road.

The above described lands contain approximately 630 acres.

Two small recreation sites within 300 feet of the loop road and within the above described land will be opened to motorized vehicles when completed.

It has been determined that continued use of the area by motor vehicles would eventually alter the natural state of the land, cause damage to the vegetation cover, resulting in erosion problems, and would be detrimental to wildlife in the area, especially elk.

Therefore, all unauthorized motor vehicles are excluded and the lands closed to such use effective June 7, 1971. Authorization to operate motor vehicles in the area will be handled by the Casper District Office of the Bureau of Land Management. Signs will be posted to identify the exterior boundaries of the closed area.

Maps showing the closed area are posted at the Post Office and Natrona County Courthouse, Casper, Wyo., and in the Casper District BLM Office, Federal Building, Casper, Wyo.

The cooperation and assistance of the public will be sincerely appreciated.

Dated: May 28, 1971.

JOHN R. KILLOUGH,
*Acting State Director,*
*Bureau of Land Management.*

[FR Doc.71-7748 Filed 6-3-71;8:47 am]

# DEPARTMENT OF AGRICULTURE

## Office of the Secretary

## TENNESSEE

### Designation of Areas for Emergency Loans

On the basis of the May 18, 1971 declaration by the President of a major disaster and the consequent areas determination by the Director, Office of Emergency Preparedness, the following counties in the State of Tennessee are hereby designated for the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) as modified by section 232 of the Disaster Relief Act of 1970 (Public Law 91-606):

TENNESSEE

| | |
|---|---|
| Benton. | Gibson. |
| Carroll. | |

Emergency loans will not be made in these counties under this designation after June 30, 1972, except subsequent loans to qualified borrowers who receive initial loans under this designation on or before that date.

Done at Washington, D.C., this 28th day of May, 1971.

CLIFFORD M. HARDIN,
*Secretary of Agriculture.*

[FR Doc.71-7826 Filed 6-3-71;8:54 am]

# DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

[Docket No. B-517]

## KENNETH CUSHMAN

### Notice of Loan Application

MAY 26, 1971.

Kenneth Cushman, Friendship, Maine 04547, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 30 feet in length, to engage in the fishery for lobsters.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
*Chief,*
*Division of Financial Assistance.*

[FR Doc.71-7739 Filed 6-3-71;8:46 am]

## Office of the Secretary

## BRIGHAM YOUNG UNIVERSITY

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and

the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00245-33-46040. Applicant: Brigham Young University, Purchasing Department, Provo, UT 84601. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used as a teaching and training instrument for undergraduate and graduate students in the biological sciences. Courses include Electron Microscopy, Electron Microscopy Laboratory, Cell Biology, and Ultrastructural Interpretation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 5, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4 electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71-7785 Filed 6-3-71;8:50 am]

## DUKE UNIVERSITY

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00243-33-46040. Applicant: Duke University Medical Center, Department of Anatomy, Post Office Box 3011, Durham, NC 27706. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens A.G., West Germany.

Intended use of article: The article will be used for studies of isolated protein molecules, crystalline bovine serum albumin, subunit structure of several crystalline protein molecules, and of metallic replicas of membrane fragments.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71-7786 Filed 6-3-71;8:50 am]

## MAYO FOUNDATION

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00244-33-46040. Applicant: Mayo Foundation, Rochester, MN 55901. Article: Electron miscroscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for medical research concerning studies of the enlarged heart in experimental animals and in man; electron miscroscopic studies of the central nervous system; and for an investigation of degeneration of unmyelinated fibers in the central nervous system as well as the study of synaptic contacts and degeneration of these in brain stem nuclei.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71-7787 Filed 6-3-71;8:50 am]

## LOUISIANA STATE UNIVERSITY

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00237-46040. Applicant: Louisiana State University, 510 East Stoner Avenue, Shreveport, LA 71101. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for high resolution studies of the micromorphology and capsomere structure of papovaviruses, picornaviruses and picodnaviruses; for comparative studies of osteolytic and osteogenic states induced by picodnaviruses in fetal hamsters; and for attempts to identify virus-like particles in human osteosarcoma.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71-7788 Filed 6-3-71;8:50 am]

## NORTHWESTERN UNIVERSITY

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00274-33-46040. Applicant: Northwestern University Medical School, Department of Pathology, 303 East Chicago Avenue, Chicago, IL 60611. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for studies of the properties of renal tubular basement membrane; the nature of structural and biochemical changes in irreversible ischemic cellular injury; and for protein transport studies.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71-7789 Filed 6-3-71;8:50 am]

## PASSAVANT MEMORIAL HOSPITAL

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00235-33-46040. Applicant: Passavant Memorial Hospital, 303 East Superior Street, Chicago, IL 60611. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used in the study of a wide variety of materials for both diagnostic and research purposes. Routine tissue section techniques will be used for the study of surgical biopsy material, particularly renal biopsy material, particularly renal biopsies and tumor pathology. Also, material is being collected for the study of the relationship of viruses to human disease, particularly their presence in certain tumors.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article, for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71-7790 Filed 6-3-71;8:51 am]

## ROCKEFELLER UNIVERSITY

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00349-33-46040. Applicant: The Rockefeller University, York Avenue and 66th Street, New York, NY 10021. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used in the Department of Biochemical Cytology for studies at all levels of resolution, including very high resolution, of different cytological phenomena occurring in normal and pathologically altered cells. The major problems to be studied include combined morphological and biochemical studies on lysosomes and peroxisomes in mammalian liver and other tissues and in the protozoan Tetrahymena pyriformis.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated April 20, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc. 71-7791 Filed 6-3-71;8:51 am]

## ROCKEFELLER UNIVERSITY

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00266-33-46040. Applicant: Rockefeller University, The Population Council Bio-Medical Division, 66th and York Avenue, New York, NY 10021. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for high resolution studies of the mechanism of action of steroid hormones, namely estrogens at the subcellular level in target cells, by means of autoradiography, study of macromolecules such as proteins and nucleic acids, cellular organelles such as lysosomes, endoplasmic reticulum, golgi body, nuclear and cell membranes.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71-7793 Filed 6-3-71;8:51 am]

## WM. H. SINGER MEMORIAL RESEARCH INSTITUTE

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00317-33-46040. Applicant: Wm. H. Singer Memorial Research Institute of the Allegheny General Hospital, 320 East North Avenue, Pittsburgh, PA 15212. Article: Two electron microscopes, Model EM 300 and accessories. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use or article: The article will be used for a study of the ultrastructure of several oncogenic simian adenoviruses with respect to the mechanism by which these viruses produce cancer in host animals; and for an investigation of the fine structure of simian viruses and Herpes virus with particular reference to the processes of multiplication and replication in tissue culture cell lines.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71-7794 Filed 6-3-71;8:51 am]

## AGRICULTURAL RESEARCH STATION, SALINAS, CALIF.

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural

Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00195–33–46040. Applicant: U.S. Agricultural Research Station, 1636 East Alisal Street, Post Office Box 5098, Salinas, CA 93901. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens A.G., West Germany.

Intended use of article: The article will be used for research on viruses of sugar beets in isolated states and in sections of infected material. Another area of research will be the study of pollen development and cytoplasmic male sterility in sugar beet. Additionally, other projects on bacterial and fungal pathogenesis and related topics may be carried out as the need arises.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU–4C electron microscope manufactured by the Forgflo Corp. The Model EMU–4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71–7795 Filed 6–3–71;8:51 am]

## UNIVERSITY OF SOUTHERN CALIFORNIA

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00341–33–46040. Applicant: University of Southern California, School of Medicine, Department of Pathology, 2025 Zonal Avenue, Los Angeles, CA 90033. Article: Electron microscope, Model HS–8F. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used primarily for educational purposes and secondarily in the study of diseases of the human central nervous system. Human brain tissues obtained at surgery or at autopsy will be studied. Ultrastructural Pathology and Neuropathology courses for graduate students, residents and fellows, will teach electron microscopy and the pathology of the central nervous system.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU–4C electron microscope manufactured by the Forgflo Corp. The Model EMU–4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated April 5, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU–4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71–7796 Filed 6–3–71;8:51 am]

## UNIVERSITY OF COLORADO

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00340–33–46040. Applicant: University of Colorado, Department of Molecular, Cellular and Developmental Biology, Boulder, CO 80302. Article: Electron microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used for educational purposes. Cell and tissue biology, a course for undergraduates, will introduce the students at the laboratory level to the techniques and instrumentation of electron microscopy, the procedures of cell fractionation, cytochemistry, histochemistry and autoradiography, and the isolation and examination of macromolecules from cells and tissues. Techniques of biological research, a course for graduate students, is designed to provide rigorous training in the techniques of cell biology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron miscroscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU–4C electron microscope manufactured by the Forgflo Corp. The Model EMU–4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated April 5, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU–4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of

equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71-7797 Filed 6-3-71;8:51 am]

## ILLINOIS STATE UNIVERSITY

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00299-33-46070. Applicant: Illinois State University, Normal, IL 61761. Article: Scanning electron microscope, Model Mark IIA. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom.

Intended use of article: The article will be used for studies involving seed, pollen, and leaves, fungus mycelium and spores, other microbiological specimens, cuticular surface features of insects, insect eggs, and various invertegrate parasites. Investigations will also include the study of freeze-etched surfaces of cells, cell membranes, and cell organelles. The application of the scanning electron microscopy will be taught to graduate students.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is equipped with a dual diffusion pump system which permits the vacuum in the column and the specimen chamber to be independently maintained. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated March 10, 1971, that the dual diffusion pump system of the foreign article is pertinent to the applicant's research studies. HEW further advises that it knows of no domestically manufactured scanning electron microscope that provides the pertinent characteristic.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71-7798 Filed 6-3-71;8:51 am]

## UNIVERSITY OF MINNESOTA

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00366-33-46040. Applicant: University of Minnesota, St. Paul, MN 55101. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used primarily as a teaching instrument for the training of professional staff and graduate students in the College of Veterinary Medicine. Emphasis will be placed on specimen preparation, microtomy, and interpretation of electron micrographs.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated April 20, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71-7799 Filed 6-3-71;8:51 am]

## UNIVERSITY OF NORTH CAROLINA

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00319-33-46040. Applicant: University of North Carolina, School of Medicine, Department of Pathology, Chapel Hill, NC 27514. Article: Electron microscope, Model JEM 100B. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan.

Intended use of article: The article will be used for ultrastructural studies of biological materials related to a research program concerning the "Subcellular or Ultrastructural Pathology of Heavy Metals". Detailed changes in organelles (subcellular structures) in cells of animal organs as affected by ingestion of heavy metals is being studied in order to understand the manner in which metal contaminants in our environment affect the metabolism of cells and human health.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the

Model EMU–4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71–7800 Filed 6–3–71;8:51 am]

## UNIVERSITY OF SOUTHERN CALIFORNIA

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00302–33–46040. Applicant: University of Southern California, 2025 Zonal Avenue, Los Angeles, CA 90033. Article: Electron Microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used for ultrastructural studies on cell membranes and membrane components. A continuing project concerns red blood cell membranes, another study is on viruses and virus components, and other research is planned on Australian antigen (hepatitis) and the structure of myxo-virus such as influenza.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU–4C electron microscope manufactured by the Forgflo Corp. The Model EMU–4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 19, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4C is not of equivalent scientific value to the foreign articles for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc. 71–7801 Filed 6–3–71;8:52 am]

## UNIVERSITY OF TENNESSEE

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00240–65–86300. Applicant: The University of Tennessee, Department of Chemical and Metallurgical Engr., Knoxville, TN 37916. Article: Viscoelastometer, Model DDV–II. Manufacturer: Toyo Measuring Instruments Co., Ltd., Japan.

Intended use of article: The article will be used for the measurement of dynamic modulus and loss modulus for fibers, plastic, elastomers and composites over a range of frequencies and temperatures.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has the ability to make torsional as well as extension measurements on fibers, plastics, elastomers, and composites at a wide range of temperatures and frequencies. We are advised by the National Bureau of Standards (NBS) in its memorandum dated February 26, 1971, that the capabilities described above are pertinent to the purposes for which the foreign article is intended to be used. NBS further advises that it knows of no comparable domestic instrument which can be used for all the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71–7802 Filed 6–3–71;8:52 am]

## UNIVERSITY OF TEXAS (SOUTHWESTERN)

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00297–33–46040. Applicant: The University of Texas (Southwestern), Medical School at Dallas, 5323 Harry Hines Boulevard, Dallas, TX 75235. Article: Electron microscope Model EM–9S. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used by the Department of Anatomy for research on the development and differentiation in Drosophila. The Department of Internal Medicine's research centers around changes in the thickness of the capillary basement membrane in the tissues of persons suffering from diabetes mellitus. Courses in which the electron microscope will be used are Cell Biology, Techniques in Cell Biology, Advanced Topics in Anatomy—Electron Microscopy, and Research in Anatomy.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU–4C electron microscope manufactured by the Forgflo Corp. The Model EMU–4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 10, 1971, that the relative sim-

plicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU–4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71–7803 Filed 6–3–71;8:52 am]

## CHILDREN'S HOSPITAL OF SAN FRANCISCO

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00330–33–46040. Applicant: Children's Hospital of San Francisco, 3700 California Street, San Francisco, CA 94119. Article: Electron microscope, EM 9S–2. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used in the study of biologic fixed tissue. This includes tumors excised from the human body at surgery, experimental animal tissues before and after experimental alterations, and tissue fluids to be studied for the presence of virus particles. The Department of Pathology will train post-doctoral fellows, students, and coworkers in the use of the microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: the applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU–4C electron microscope manufactured by the Forgflo Corp. The Model EMU–4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated March 26, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU–4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71–7804 Filed 6–3–71;8:52 am]

## UNIVERSITY OF WISCONSIN

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71–00255–33–46040. Applicant: University of Wisconsin, 750 University Avenue, Madison, WI 53706. Article: Electron microscope, Model HU–11E–1. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used by a research group whose prime interest is the integrated study of the structure and function of biological membranes in general and, since it is structurally a system of membranes, of the mitochondrion in particular. Such diverse membranes as human and animal red blood cell ghost membranes, chloroplast membranes from plants and retinal rod membranes from animal eyes will be studied.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU–4C electron microscope manufactured by the Forgflo Corp. The Model EMU–4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 26, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
*Director,*
*Office of Import Programs.*

[FR Doc.71–7805 Filed 6–3–71;8:52 am]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

[DESI 6686]

[Docket No. FDC–D–317; NDA 6–686, etc.]

## DIMENHYDRINATE

### Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs containing dimenhydrinate for oral, parenteral, or rectal use:

1. Dramamine Supposicones (suppositories); G. D. Searle and Co., Post Office Box 5110, Chicago, Illinois 60680 (NDA 8–310).

2. Dramamine Tablets and Dramamine Liquid; G. D. Searle and Co. (NDA 6–686).

3. Dramamine Injection; G. D. Searle and Co. (NDA 8–153).

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. Dimenhydrinate is effective for use in motion sickness.

2. Dimenhydrinate is probably effective for use in the control of nausea and vomiting postoperatively, and following radiation and electroshock therapy.

3. Dimenhydrinate is possibly effective for use in nausea, vomiting, and vertigo associated with Meniere's syndrome, postfenestration syndrome, and migraine; and nausea and vomiting of pregnancy.

4. Dimenhydrinate lacks substantial evidence of effectiveness for use in nausea, vomiting, and vertigo associated with hypertension; vertigo of unknown origin; labyrinthitis; nausea and vomiting of narcotization; and as an adjunct with antibiotic therapy particularly streptomycin.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Dimenhydrinate preparations are in tablet or liquid, sterile solution, or suppository form suitable for oral, parenteral, or rectal administration respectively.

2. *Labeling conditions for Dimenhydrinate Tablets or Liquid for OTC use.* a. The drug is labeled to comply with all requirements of the Act and regulations promulgated thereunder, and its labeling bears adequate directions and warnings under which a layman can use the drug safely and for the purpose for which it is intended.

b. The statement of identity, which includes the general pharmacological category or principal intended action, required under § 1.102a (21 CFR 1.102a) appears in bold face type on the principal display panel.

c. The indications for use are: For prevention and treatment of motion sickness.

3. *Labeling conditions for Dimenhydrinate Suppositories and Injection for Prescription Use.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows: (The possibly effective indications may also be included for 6 months.)

INDICATIONS

Dimenhydrinate is indicated in prophylaxis and treatment of motion sickness; for the control of nausea and vomiting postoperatively and following radiation and electroshock therapy.

4. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273) as follows:

a. For holders of "deemed approved" new-drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed (except when administered intravenously), as described in paragraphs (a)(1) (i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new-drug application, the submission of an abbreviated new-drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed (except for the intravenous administration), as described in paragraph (a)(3)(ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" section for prescription forms above) and possibly effective (not included in the "Indications" section above), continued use (in labeling of prescription forms and that labeling directed to the practitioner concerning over-the-counter forms) as described in paragraphs (c), (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A (Effectiveness classification) of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order may cause any such drug for human use offered for the indications for which substantial evidence of effectiveness is lacking to be a new drug for which an approved new drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling or why the drug should not be removed from the market. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in section 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE–200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6686, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852.

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

Request for a hearing (identify with Docket number): Hearing Clerk, Office of General Counsel (GC–1), Room 6–62, Parklawn Building.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 255) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 7, 1971.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.71-7742 Filed 6-3-71;8:46 am]

[DESI 10773]

## CERTAIN OTC LAXATIVE DRUGS

### Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following laxative drugs for oral use:

1. Mucilose-Super Powder containing hemicellulose and tyloxapol; Winthrop

Laboratories, 90 Park Avenue, New York, New York 10016 (NDA 11-623).

2. Correctol Tablets containing phenolphthalein and dioctyl sodium sulfosuccinate; Pharmaco, Inc., Post Office Box 1141, Union, New Jersey 07083 (NDA 10-773).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are possibly effective for their labeled indications.

B. *Marketing status.* Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as possibly effective may be continued for 6 months as described in paragraphs (d), (e), and (f) of the notice Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 10773, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 5, 1971.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.71-7743 Filed 6-3-71;8:45 am]

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## Public Health Service

### HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

### Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration), formerly part 5, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968, as amended by 35 F.R. 12030, July 25, 1970), is hereby amended with regard to Section 3-B, formerly 5-B, Organization, as follows:

In lieu of the section *Division of Manpower and Training Programs (2445)*, insert the following:

*Division of Manpower and Training Programs (3J45).* (1) Plans and administers programs of support for training of mental health personnel for research and service on a nationwide basis, including training in the mental health care disciplines, specialized training for professionals and subprofessionals in allied fields, and experimental training for current and newly emerging programs and activities; (2) develops and utilizes various types of grant and contract mechanisms to support these training programs; (3) conducts intramural and collaborative programs designed to increase knowledge of the processes and techniques of mental health education and training, and to develop new approaches to mental health curricula and methods; and (4) collects and evaluates data on national mental health manpower.

Also, in lieu of the sections *National Center for Mental Health Services, Training, and Research (3J71)*; *St. Elizabeths Hospital-Division of Clinical and Community Services (3J7103)*; *Seymour D. Vestermark Division of Intramural Training (3J7105)*; *and Winfred Overholser Division of Clinical Research (3J7107)*, insert the following:

*St. Elizabeths Hospital-Division of Clinical and Community Services (3J71).* (1) Provides treatment, care, and rehabilitation services for psychiatric patients including a security treatment facility; (2) operates a model comprehensive community mental health center; (3) conducts and coordinates Hospital training and research programs; and (4) provides administrative and logistical support to other NIMH research activities located in the facilities of the Hospital.

Date: May 26, 1971.

ELLIOT L. RICHARDSON,
*Secretary.*

[FR Doc.71-7807 Filed 6-3-71;8:52 am]

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## ACTING ASSISTANT SECRETARY FOR HOUSING MANAGEMENT

### Designation

SECTION A. *Designation.* The officials appointed to, or designated to serve as Acting during a vacancy in, the following positions are hereby designated to serve as Acting Assistant Secretary for Housing Management during the absence of the Assistant Secretary for Housing Management with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Housing Management: *Provided,* That no official is authorized to serve as Acting Assistant Secretary for Housing Management unless all other officials whose appointed, or designated Acting, position titles precede his in this designation are unable to act by reason of absence:

1. Deputy Assistant Secretary for Housing Management;

2. Director, Office of Housing Programs;

3. Director, Office of Program Development;

4. Director, Office of Property Disposition.

SEC. B. *Authorization.* Each head of an organizational unit of Housing Management is authorized to designate an employee under his jurisdiction to serve as Acting during the absence of the head of the unit.

SEC. C. *Supersedures.* This designation supersedes the designation of Acting Assistant Secretary for Renewal and Housing Management et al. published at 35 F.R. 4769, March 19, 1970.

(Secretary's delegation of authority to designate Acting officials, 36 F.R. 5004, March 16, 1971)

*Effective date.* This delegation of authority is effective as of March 11, 1971.

NORMAN V. WATSON,
*Assistant Secretary for Housing Management.*

[FR Doc.71-7749 Filed 6-3-71;8:46 am]

# ATOMIC ENERGY COMMISSION

[Docket No. 50-358]

## CINCINNATI GAS & ELECTRIC CO. ET AL.

### Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matter

The Cincinnati Gas & Electric Co. (Cincinnati), Fourth and Main Streets, Cincinnati, OH 45202; Columbus and Southern Ohio Electric Co. (Columbus), 215 North Front Street, Columbus, OH 43215; and The Dayton Power and Light Co. (Dayton), 25 North Main Street, Dayton, OH 45401, pursuant to the Atomic Energy Act of 1954, as amended, have filed an application dated April 6, 1970, for construction permits and facility licenses to authorize construction and operation of two single cycle, forced circulation, boiling water nuclear reactors on a site on the east shore of the Ohio River, just north of Moscow and about 24 miles southeast of Cincinnati, in Washington Township, Clermont County, Ohio. In a subsequent amendment to the application, dated December 15, 1970, the applicants amended the application to reflect a single unit.

The proposed reactor, designated by the applicants as the Wm. H. Zimmer Nuclear Power Station Unit 1 (Zimmer

Station), is designed for initial operation at approximately 2,436 megawatts (thermal), with a net electrical output of approximately 807 megawatts.

Cincinnati, Columbus, and Dayton will share undivided ownership of the proposed Zimmer Station as tenants in common, and will share in the engineering and construction costs in proportion to their ownership interests as set forth in the application. Cincinnati, acting for itself and as agent for Columbus and Dayton, will have responsibility for the design, construction and operation of Zimmer Station.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after May 21, 1971.

A copy of the application, including amendments, is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and in the Clermont County Library, Third and Broadway, Batavia, OH.

Dated at Bethesda, Md., this 14th day of May 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
*Director,*
*Division of Reactor Licensing.*

[FR Doc.71-7039 Filed 5-20-71;8:45 am]

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[Dockets Nos. 50-329, 50-330]

## CONSUMERS POWER CO.

### Location of Hearing

The hearing in the above captioned matter will be continued on June 21, 1971, at the following location:

Jefferson Junior High School Gymnasium, 800 Chapel Lane, Midland, MI 48640.

Dated: May 28, 1971.

For the Atomic Safety and Licensing Board.

ARTHUR W. MURPHY,
*Chairman.*

[FR Doc.71-7736 Filed 6-3-71;8:46 am]

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[Docket No. 50-321]

## GEORGIA POWER CO.

### Notice of Receipt of Application for Facility Operating License

Please take notice that the Georgia Power Co., 270 Peachtree Street, Atlanta, GA 30303, pursuant to the Atomic Energy Act of 1954, as amended (the Act) has filed an application dated March 12, 1971, accompanied by a Final Safety Analysis Report, for a license to operate a nuclear power reactor on its site on the south side of the Altamaha River in northwestern Appling County, about 11 miles north of Baxley, Ga.

The nuclear power reactor is a boiling water reactor, designated by the applicant as the Edwin I. Hatch Nuclear Plant Unit 1, which is designed for initial operation at approximately 2,436 megawatts thermal with a net electrical output of approximately 786 megawatts.

A copy of the application and the amendments thereto are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Appling County Public Library, Parker Street, Baxley, Ga.

Dated at Bethesda, Md., this 27th day of May 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
*Director,*
*Division of Reactor Licensing.*

[FR Doc.71-7737 Filed 6-3-71;8:46 am]

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[Docket No. 50-312]

## SACRAMENTO MUNICIPAL UTILITY DISTRICT

### Notice of Receipt of Application for Facility Operating License

Please take notice that Sacramento Municipal Utility District, 6201 S Street, Post Office Box 15830, Sacramento, CA 95813, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, has filed an application dated May 1, 1971, together with a final safety analysis report, for a license to operate a nuclear power reactor at its site in Sacramento County, CA.

The nuclear power reactor is a pressurized water nuclear reactor designated by the applicant as the Rancho Seco Nuclear Generating Station Unit No. 1, and is designed for initial operation at approximately 2,772 megawatts (thermal) with a net electrical output of approximately 955 megawatts.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Sacramento City County Library, 1930 T Street, Sacramento, CA 95814, Mrs. Dorothy Drake, Librarian.

Dated at Bethesda, Md., this 21st day of May 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
*Director,*
*Division of Reactor Licensing.*

[FR Doc.71-7738 Filed 6-3-71;8:46 am]

# CIVIL AERONAUTICS BOARD

[Docket No. 23378]

## SURINAAMSE LUCHTVRACHT ONDERNEMING N.V.

### Application for Foreign Air Carrier Permit; Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled application is assigned to be held on June 16, 1971, at 10 a.m., local time, in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Edward T. Stodola.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement before June 14, 1971.

Dated at Washington, D.C., June 1, 1971.

[SEAL] RALPH L. WISER,
*Associate Chief Examiner.*

[FR Doc.71-7829 Filed 6-3-71;8:54 am]

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[Docket No. 23456; Order 71-6-4]

## WTC AIR FREIGHT

### Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1971.

By tariff revisions[1] effective January 29, 1971, WTC Air Freight (WTC), an air freight forwarder, established airport-to-airport specific commodity rates on various toilet preparations and related articles having a density of 15 pounds per cubic foot or more from New York/Newark to Los Angeles. WTC's rates result in reductions ranging from 13 to 40 percent below the previously applicable rates on the same commodities with no density requirements.

United Air Lines, Inc. (United), filed a complaint on February 2, after WTC's rates had become effective, requesting an expedited investigation. United's complaint states, inter alia, that the purpose of the revisions is to capture traffic through attractive, but economically destructive rates. United contends that these rates are for the purpose of implementing the charter contract between Airlift International, Inc. (Airlift), and the freight forwarder, Shulman, Inc. (Shulman), and the joint loading agreement between Shulman and WTC, which have been opposed by United. United further alleges that the rates complained of are considerably below compensatory levels to WTC's and are filed as loss leaders.

An answer to United's complaint was filed by Airlift, stating, inter alia, that while the complaint is directed against WTC's rates, the main thrust is against the Airlift-Shulman charter agreement (Docket 22057) and that United makes no effort to show that the rates would be available only on freight moving under the charter.

WTC has submitted no economic data or any other justification in support of its rates.

Upon consideration of the tariff, the complaint, the answer of Airlift and all other relevant factors, the Board finds that WTC's rates may be unjust, unreasonable, unjustly discriminatory, un-

[1] Revisions to Tariff CAB No. 5 issued by WTC Air Freight.

duly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated.

The rates involve reductions below the currently applicable general commodity rates in effect for direct carriers, ranging between 24 and 53 percent for bulk shipments and from 30 to 36 percent below direct container rates. The actual differences between total shipper costs based on WTC's rates and those based on direct carrier rates are even greater since the 5-percent air transportation tax is imposed upon the rates of the direct air carriers but not upon the rates offered by the forwarders.

Furthermore, as alleged by United, it appears that WTC's rates for larger shipments are also below its own average unit costs for airport-to-airport transportation based on the charter operations referred to in the complaint, without considering any additional expenses incurred by the forwarder for its own operations.

Although we shall not direct expedition of the investigation initiated herein, the matter will be considered as soon as practicable in the light of other matters pending before the Board.

United also submits that it would be appropriate for the Board to consolidate the investigation requested with the proceeding dealing with the Airlift/Shulman/WTC agreements referred to above. By EDR–198, April 14, 1971, the Board gave notice that it is considering issuance of a notice of proposed rule making that would include amendment of our Economic Regulations (14 CFR 296 and 297) to limit the chartering of aircraft by air freight forwarders. In this notice, the Board deferred action on the above agreements pending the outcome of any resulting rule making proceeding. In view of this, we will not consolidate these proceedings. This decision is without prejudice to a subsequent timely request for consolidation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

*It is ordered,* That:

1. An investigation is instituted to determine whether the rates for Item No. 538 applicable from Newark, N.J., or New York, N.Y., to Los Angeles, Calif., on Original, First and Second Revised Pages 40–A of WTC Air Freight's CAB No. 5, including subsequent revisions and reissues will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates and rules, regulations, and practices affecting such rates;

2. The proceeding herein designated as Docket 23456, be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated;

3. The complaint of United Air Lines, Inc., in Docket 23065, is dismissed, except to the extent granted herein; and

4. Copies of this order shall be served upon WTC Air Freight and United Air Lines, Inc., which are hereby made parties to Docket 23456.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
*Secretary.*

[FR Doc.71–7830 Filed 6–3–71;8:54 am]

# ENVIRONMENTAL PROTECTION AGENCY

## BASF WYANDOTTE CORP.

### Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1140) has been filed by The BASF Wyandotte Corp., 100 Cherry Hill Road, Post Office Box 181, Parsippany, NJ 07054, proposing the establishment of tolerances (21 CFR Part 420) for combined negligible residues of the herbicide 2-chloro-*N*-(1-methyl-2-propynyl) acetanilide and its metabolites (calculated as the herbicide) in or on the raw agricultural commodities grain of field corn and sorghum at 0.15 part per million.

The analytical method proposed in the petition for determining residues of the herbicide and its metabolites is a procedure in which alkaline hydrolysis releases isobutynyl aniline, which is determined by gas chromatography using a nitrogen detector.

Dated: May 28, 1971.

LOWELL E. MILLER,
*Acting Deputy Assistant Administrator for Pesticides Programs.*

[FR Doc.71–7776 Filed 6–3–71;8:49 am]

## CIBA-GEIGY CORP.

### Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1152) has been filed by The Ciba-Geigy Corp., Ardsley, N.Y. 10502, proposing the establishment of a tolerance (21 CFR Part 420) for negligible residues of the herbicide 2-*tert*-butylamino-4-ethylamino-6-methylthio-*s*-triazine in or on the raw agricultural commodity barley (grain, green fodder, and straw) at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure using a flame photometric detector with a sulfur filter at 394 nanometers.

Dated: May 28, 1971.

LOWELL E. MILLER,
*Acting Deputy Assistant Administrator for Pesticides Programs.*

[FR Doc.71–7777 Filed 6–3–71;8:50 am]

## HERCULES, INC.

### Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1118) has been filed by Hercules, Inc., Wilmington, Del. 19899, proposing the establishment of tolerances (21 CFR Part 420) for residues of the insecticide toxaphene (chlorinated camphene containing 67 percent—69 percent chlorine) in or on the raw agricultural commodities alfalfa hay at 1 part per million and milk at 0.05 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas chromatographic procedure using an electron capture detector.

Dated: May 28, 1971.

LOWELL E. MILLER,
*Acting Deputy Assistant Administrator for Pesticides Programs.*

[FR Doc.71–7778 Filed 6–3–71;8:50 am]

## E. I. DU PONT DE NEMOURS & CO., INC.

### Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1159) has been filed by E. I. du Pont de Nemours and Co., Wilmington, Del., 19898, proposing the establishment of a tolerance (21 CFR Part 420) for residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy]thioacetimidate) in or on the raw agricultural commodity alfalfa at 10 parts per million.

The analytical method proposed in the petition for determining residues of the insecticide is that of H. L. Pease and J. J. Kirkland, "Journal of Agricultural and Food Chemistry", Vol. 16, July/August 1968, pp. 554–557.

Dated: May 28, 1971.

LOWELL E. MILLER,
*Acting Deputy Assistant Administrator for Pesticides Programs.*

[FR Doc.71–7779 Filed 6–3–71;8:50 am]

## NACA INDUSTRY TASK FORCE ON PHENOXY HERBICIDE TOLERANCES

### Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1102) has been filed by the National Agricultural Chemicals Association's Industry Task Force on Phenoxy Herbicide Tolerances, 1155 15th Street NW., Washington, D.C. 20005, proposing the establishment of tolerances (21 CFR Part 420) for residues of the herbicide 2,4,5-T (2,4,5-trichlorophenoxacetic acid) in or on the raw agricultural commodities grass at 300 parts per million; and apples, barley, blueberries, corn, oats, rice, rye, sugarcane, and wheat at 0.2 part per million (negligible residue) from application of the herbicide in either the acid form or in the form of one or more of the following salts or esters:

1. The amine salts: alkyl (C–12), alkyl (C–13), alkyl (C–14), *N,N*-dimethyloleylamine, *N,N*-dimethyllinoleylamine, *N*-oleyl-1,3-propylenediamine, triethanolamine, and triethylamine.

2. The esters: alkyl ($C_3H_7$-$C_7H_9$), amyl, butyl, butoxyethyl, butoxypropyl, dipropylene glycol isobutyl ether, 2-ethylhexyl (isooctyl), propylene glycol butyl ether, propylene glycol isobutyl ether, and tripropylene glycol isobutyl ether.

The analytical methods proposed in the petition for determining residues of the herbicide are:

1. A procedure in which the residue is converted to the methyl ester of 2,4,5-T and analyzed by gas chromatography using an electron capture detection system.

2. A procedure in which the residue is converted to the methyl ester and analyzed by gas chromatography using a microcoulometric detection system.

3. A modification of the method of R. P. Marquardt and E. N. Luce, "Jour. Agr. Food Chem.", 3:51–3 (1955).

Dated: May 28, 1971.

LOWELL E. MILLER,
*Acting Deputy Assistant Administrator, for Pesticides Programs.*

[FR Doc.71-7780 Filed 6-3-71;8:50 am]

# FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 15752, etc.; FCC 71R-160]

## CHARLES W. JOBBINS ET AL.

### Memorandum Opinion and Order Enlarging Issues

In regard applications of Charles W. Jobbins, Costa Mesa-Newport Beach, Calif., Docket No. 15752, File No. BP-16157; Goodson-Todman Broadcasting, Inc., Pasadena, Calif., Docket No. 15754, File No. BP-16159; Orange Radio, Inc., Fullerton, Calif., Docket No. 15755, File No. BP-16160; Pacific Fine Music, Inc., Whittier, Calif., Docket No. 15756, File No. BP-16161; C. D. Funk and George A. Baron, a partnership doing business as Topanga Malibu Broadcasting Co., Topanga, Calif., Docket No. 15758, File No. BP-16164; California Regional Broadcasting Corp., Pasadena, Calif., Docket No. 15759, File No. BP-16165; Robert S. Morton, Arthur Hanisch, Macdonald Carey, Ben F. Smith, Donald C. McBain, Robert Breckner, Louis R. Vincenti, Robert C. Mardian, James B. Boyle, Robert M. Vaillancourt and Edwin Earl, doing business as Crown City Broadcasting Co., Pasadena, Calif., Docket No. 15762, File No. BP-16168; Voice in Pasadena, Inc., Pasadena, Calif., Docket No. 15764, File No. BP-16172; Western Broadcasting Corp., Pasadena, Calif., Docket No. 15765, File No. BP-16173; Pasadena Broadcasting Co., Pasadena, Calif., Docket No. 15766, File No. BP-16174; for construction permits.

1. In a decision adopted this same date, the Review Board has denied the above-described low-power applications of Charles W. Jobbins and of Topanga Malibu Broadcasting Co. because their proposed low-power use of this existing high power frequency assignment of 1110 kHz (a) is incompatible with fundamental considerations relating to our national and international schemes of allocation and of assignment of AM radio frequencies; and (b) would not result in a better allocation of this frequency under section 307(b). As a second totally independent ground of decision with respect to the application of Topanga Malibu Broadcasting Co., we denied that application because its proposal does not comport with the requirements of § 73.24(d) of the Commission's rules, and on this ground, standing alone, its proposal is grossly inefficient. With respect to the remaining applications described above, all are high-power proposals, and we denied all of those applications, with the exception of Orange Radio, Inc., on basic threshold disqualifying grounds relating (a) to their respective sites, (b) to their ability to maintain and adjust their directional antenna patterns, and (c) to interference to KFAB, Omaha, Nebr., the dominant I–B station on this channel. Hence, on the basis of our findings of fact and conclusions in our Decision, we would have granted the application of Orange Radio, Inc. However, on February 16, 1971—many months after the oral argument of this proceeding held before a panel of the Review Board—Western filed a petition to enlarge the issues, reopen the record and remand this proceeding for further hearing seeking the addition of several issues which would inquire into the basic qualifications of Orange.[1] The questions raised by this petition must be resolved in Orange's favor before its application can be granted.

2. In its petition, Western seeks the addition of the following issues against Orange:

(1) To determine whether Orange Radio, Inc. (Orange) and/or its stockholder, Robert A. Maheu, have made false or misleading representations with respect to the nature of Mr. Maheu's business interests and activities, including particularly in relation to Howard R. Hughes, Hughes Tool Co. and Hughes' Nevada Operations;

(2) To determine whether the proposal of Orange for Mr. Maheu to perform certain duties and devote certain time to the proposed Orange station was made in bad faith and without intention to perform the proposed duties;

(3) To determine whether Robert A. Maheu, at any time between March 1967 and December 1970, exercised control over the operation of Station KLAS–TV, Channel 8, Las Vegas, Nev., in violation of section 310(b) of the Communications Act of 1934, as amended (47 U.S.C. section 319(b)), and whether Hughes Tool Co., of which Orange stockholder Frank W. Gay is a Director and Senior Vice President, at any time within the aforesaid period relinquished control over Station KLAS–TV in violation of section 310(b) of the Communications Act with respect to operational responsibility for said station;

(4) To determine whether Orange Radio, Inc., has failed to report significant and material changes in information previously furnished the Commission, by amending its application and hearing representations from time-to-time as required by § 1.65 of the Commission's rules;

(5) To determine, in light of the foregoing, whether Orange Radio, Inc., possesses the requisite qualifications to be a licensee of the Commission.

3. Petitioner bases its request upon alleged inconsistences between various oral and written representations made to the Commission by Orange during the course of this proceeding concerning the relationship between Robert A. Maheu, a 15 percent stockholder and one of the founding principals of Orange, and Howard Hughes, and statements and testimony made in connection with an action in the Eighth Judicial District Court of Nevada, brought in December,

[1] Related pleadings before the Review Board are: (a) Opposition, filed Mar. 8, 1971, by Orange; (b) comments of Broadcast Bureau, filed Mar. 9, 1971; (c) motion of Orange for leave to respond to Broadcast Bureau's comment and response, filed Mar. 19, 1971; and (d) reply to opposition, filed Mar. 22, 1971, by Western. Orange has shown sufficient reason for acceptance of its response to the Broadcast Bureau's comment and, therefore, its motion will be granted and its response will be accepted.

1970, by Mr. Maheu against various individuals connected with Hughes who had attempted to strip him of his duties in relation to Hughes' enterprises.[2] Specifically, Western argues that Orange has represented that Mr. Maheu is a public relations consultant for Howard Hughes when, in fact, he has exercised broad executive control over the Hughes Nevada operations; that Orange and Maheu repeatedly have stated that Hughes and the Hughes organization are not the only clients of Mr. Maheu's public relation firm, whereas in the Las Vegas litigation, Mr. Maheu stated that in 1962, Hughes asked him to give up his other clients and devote 100 percent of his time to Hughes' affairs; that Orange represented that Sands, Inc., of which Mr. Maheu is the President and Director, is only a passive landlord corporation, even though testimony in the Nevada litigation indicates that it has become, directly or through subsidiaries, an operating or management company with respect to the Hughes Nevada operations; that Orange's "Opposition to Petition to Enlarge Issues," filed September 5, 1968, "implicitly denied" that Maheu actively participated in the matter of the Hughes Tool-ABC tender offer, whereas in his testimony in the Nevada court proceeding he stated that Hughes gave him sole authority to decide whether to extend the option on the tender offer, which involved $154 million. Western argues that all of these matters indicate a readiness on the part of Orange to deceive the Commission, which goes to the heart of its qualifications to be a licensee.

4. Further, petitioner argues that Maheu's testimony in the Nevada litigation brings into doubt the good faith of Orange's proposal that Maheu devote not less than 2 hours a day nor less than 20 hours per week to the operation of the proposed station. Western points to Maheu's claim that in 1962, Hughes requested him to give up his other clients and devote himself 100 percent to Hughes' interest; to Maheu's assertion that he and Hughes had a pact for the rest of their natural lives; and to the fact that Maheu moved to Las Vegas in 1966 at Hughes' request and has remained there since.

5. Next, Western notes that when the Commission announced on February 23, 1968, that it had granted the application to assign the license of Station KLAS–TV, Channel 8, Las Vegas, to Hughes Tool Co. (BAPUT–91), it ordered the assignee to file a statement "designating the natural person * * * who will have the authority and responsibility for establishing and controlling the policies of the station and managing its operations"; that Hughes Tool designated Mr. Raymond M. Holliday, a resident of Houston, Tex., and a Hughes Tool Co. Director and Officer as the responsible official; and that no change has been made in this designation. Petitioner then points to Maheu's statement in his verified complaint in Case No. A–84241, that he exercised control over the operation of KLAS–TV. Western concludes that Maheu's sworn allegations "raise a question as to whether he exercised control over Station KLAS–TV in violation of section 310(b) of the Communications Act" and a further question as to whether Hughes Tool violated the condition upon its grant or misled the Commission when it designated Raymond M. Holliday. Petitioner argues that the latter question also bears upon Orange's qualifications since Frank Gay, a director and senior vice-president of Hughes Tool, is a 15-percent stockholder in Orange.

6. Western contends that even if all of the foregoing issues could be resolved in Orange's favor, there would still remain Orange's failure to report significant changes in the material furnished by it to the Commission, as required by § 1.65 of the Commission's rules. In support of this final contention Western points to its allegations concerning Maheu's relationship to Hughes' Las Vegas interest; the doubt which now hangs over Orange's integration proposal as it relates to Maheu; the alleged transformation of Sands, Inc. into an operating company; and Maheu's connection with KLAS–TV.[3]

7. In opposition, Orange first argues that Western's petition "is so grossly untimely, as to be rejected out of hand at this very late stage in the proceeding." The applicant notes that the court documents relied upon by petitioner were filed on December 5 and 7, 1970, over 10 weeks before the instant petition was filed on February 16, 1971. Orange contends that Western has not attempted to demonstrate the good cause for its late filing required by § 1.229 of the rules; that no unusual or compelling circumstances are present here; that no substantial likelihood that the petitioner's allegations can be proven has been established; and that the questions raised by Western are not of decisional significance in this case.

8. With regard to the substance of Western's petition, Orange relies upon an attached statement by Maheu concerning his relationship with Hughes and the Hughes Nevada interests. Orange and Maheu argue that no misrepresentations have been made concerning Maheu's relationship with Hughes; that, indeed, such misrepresentations could not be made considering the extensive press coverage to which that relationship has been subject in the last several years. Rather, Orange contends that the charge of misrepresentation is "based upon innuendo, half-truths and calculated attempts to distort the record." Specifically, Orange and Maheu maintain that there is no inconsistency between Maheu's representation that he has been a public relations consultant for Hughes and the fact that he has exercised broad executive responsibilities with respect to the Hughes Nevada operations; that public relations is not a narrowly defined field and that Hughes cannot be considered a conventional public relations client; and that the question of Maheu's activities on behalf of the Hughes interests has never been at issue in this proceeding, but merely the nature of the business relationship between Maheu and Hughes, to which Orange has fully and truthfully addressed itself. Further, Orange argues that it did not misrepresent Maheu's interest in Sands, Inc., but directly complied with the Examiner's request for a showing "of the exact nature of Mr. Maheu's title, functions and duties with Sands, Inc., and his business relationships with that organization." Moreover, in answer to the allegation that Sands, Inc., has become an active operating company, Orange maintains that it still remains a passive corporation. Finally, Orange and Maheu contend that it is accurate to state that Maheu "was not a participant in the so-called Hughes Tool-ABC Tender Offer or the litigation concerning it," but was only responsible for determining that the tender offer should not be extended for an additional week.

9. In regard to Western's charge that Orange's integration proposal as to Maheu was made in bad faith, Orange claims that there is no basis for the belief that Maheu's lifetime arrangement with Hughes would exclude other activities and points to Maheu's affirmation that Hughes would not object to the time which would be devoted to the proposed station.[4] In response to the allegations concerning transfer of control of Station KLAS–TV, Maheu explains that the word "control" in his complaint in the Nevada court proceeding was used not "as a term or word of art in a regulatory sense but rather in a vicarious lay sense to delineate a relationship germane to possessary authority over physical properties in the context of litigation dealing with possessory rights" and that he did not mean to suggest that his function superseded the responsibilities of Raymond M. Holliday.

10. In answer to the allegations concerning Orange's failure to keep its application current, Orange contends: (1) that the assertion that Robert A. Maheu Associates is no longer merely a public relations firm is incorrect; (2) that there was no reason to change the Orange integration proposal since there is no reason to doubt Maheu's commitment;

[2] Maheu v. Davis, et al. (Case No. A–84241). Hughes Tool Co. filed a countersuit, Hughes Tool Company v. Maheu, et al. (Case No. A–86259). Western attaches, as Exhibits C and D of its petition, copies of the complaints of Maheu and Hughes Tool.

[3] The Broadcast Bureau, in its comments, supports Western's petition and states its belief "that the Review Board cannot grant Orange Radio's application without inquiring into the several character questions Western raises."

[4] Orange also contends that it did not misrepresent whether Hughes and the Hughes organizations were the only clients of Robert A. Maheu Associates. It notes that, while Maheu testified that he intended to give up other clients at Hughes' request, he did this "slowly."

(3) that Sands, Inc., as previously asserted, remains a passive corporation, despite its acquisition of two wholly owned subsidiaries that are operating companies; and (4) that Maheu's connection with Station KLAS–TV is not reportable under Commission rules.

11. First, the Review Board is in agreement with the position of the Broadcast Bureau, in its comments, that Western has met the requirements for a reopening of the record in this proceeding, i.e., the petition is supported by new evidence; the facts relied upon could not with due diligence have been known at the time of hearing; and the new evidence, if true, would be of decisional effect. See Community Television Corporation, FCC 60–1459, 20 RR 1105. Moreover, although Western's pleading is admittedly late-filed, it raises serious public interest questions which require consideration on their merits under the doctrine of The Edgefield-Saluda Radio Company, 5 FCC 2d 168, 4 RR 2d 611 (1966).

12. Turning to the substance of Western's petition, we are of the opinion that the first requested issue must be granted. Maheu's sworn statements in connection with his Nevada suit are in basic conflict with representations made to the Commission at various times during this proceeding. This conflict raises serious questions of whether Orange has consistently sought to mislead the Commission in regard to Maheu's relationship with Howard Hughes and the Hughes organization. If Maheu's complaint and testimony in the Nevada litigation are taken as true (and Orange's opposition pleading does not challenge them), Maheu performed broad executive functions and exercised very substantial control over Hughes' properties and interests in Nevada. Paragraph 1 of Maheu's verified complaint, a copy of which is attached to Western's petition, states that:

1. Commencing in or about March 1967, and continuing thereafter until the filing of the complaint herein, the plaintiff Robert A. Maheu has exercised control over the operation in the State of Nevada of certain properties, including, but not limited to, hotel, gaming, convention, dining, shopping, entertainment, and recreational facilities to the public and vacant lands suitable as potential hotel-casino locations, among which are the following:

(a) The Sands Hotel, Clark County, Nev.;
(b) Desert Inn, Clark County, Nev.;
(c) Castaways Hotel, Clark County, Nev.;
(d) Frontier Hotel, Clark County, Nev.;
(e) Silver Slipper, Clark County, Nev.;
(f) Landmark Hotel, Clark County, Nev.;
(g) Harold's Club, Washoe County, Nev.;
(h) KLAS TV 8, Clark County, Nev.;
(i) Nevada Airport Operations, Clark County, Nev.;

(j) General Fund Bank Accounts of all the above in Valley Bank of Nevada, Nevada National Bank, First National Bank of Nevada, Nevada State Bank, and Bank of Nevada.[5]

Further, excerpts from the transcript of testimony in the Nevada actions (attached as Appendix A to Western's reply pleading and touched upon by the Broadcast Bureau in its comments) disclose that Maheu, among other relevant statements, referred to "the broad authority that I had for all of the so-called Hughes Nevada Operations, for the full authority that I had pertaining to the TWA litigation, for the authority that I had on all land holdings of the Hughes Tool Co., to the authority that I had relative to the Hughes Sports Network * * *"; stated that "there had not been any major acquisition made by the Hughes Tool Co., or Mr. Hughes personally since 1966, which had not been handled by me personally on his behalf"; characterized himself as the "chief executive officer of the Hughes Nevada Operation"; and provided a picture of involvement in Hughes' operation and acquisition in Nevada at a high level of responsibility. Hughes Tool Co., in its pleading in connection with its counter-suit seeking to strip Maheu of authority, states that "among the responsibilities of Robert A. Maheu Associates since April 1967, has been the management and operation of some of the properties owned by Plaintiff in Nevada."

13. In contrast to the above statements must be placed Orange's repeated assertion that the relationship between Maheu and the Hughes organization was that of public relations agent and client. While it is undoubtedly true that Robert Maheu Associates has done public relations work for Hughes, it would appear from the pleadings and testimony in the Nevada litigation that such a characterization provides a misleadingly partial picture of the Maheu-Hughes relationship. Maheu does not directly contradict the picture of that relationship provided by those pleadings and that testimony. His explanation that he understands the term "public relations" as one which covers the extremely broad executive and management functions which he has exercised over the Hughes Nevada interests is difficult to accept, absent an evidentiary inquiry into all of the facts and circumstances of that relationship. Nor can we accept Orange's contention that Maheu could not mislead the Commission about the matters under consideration since the question of his relationship with Hughes has been the subject of media coverage for several years. The Commission cannot be placed in the position of obtaining full information concerning applicants from secondary sources.

14. The testimony and pleadings in the Nevada litigation also raise substantial questions concerning the good faith of Orange's integration proposal as it involves Maheu. Orange Exhibit 41 proposes that Maheu will devote not less than 2 hours each day, nor less than 20 hours per week to the proposed station. When Orange's opponents originally challenged the validity of this representation, Orange submitted an affidavit of Maheu, dated November 4, 1966, in which he stated that he was not an employee of Hughes and that Hughes and Hughes Tool Co. were just two of several public relations clients; and James Simons testified that Hughes' interests did not require a great deal of Maheu's time. However, Maheu concedes that as early as 1962 Hughes requested him to give up all other clients and devote himself solely to the Hughes interests; that he did in fact proceed to divest himself of other clients; and that the pact between Maheu and Hughes was to run for the rest of their lives. These facts, combined with Maheu's move from Los Angeles to Las Vegas in 1967, raise serious questions of whether Orange exercised good faith in initially making its integration proposal as to Maheu or whether it failed to change it when Maheu's situation was altered. Maheu's unsupported assurance, in his statement attached to Orange's opposition, that he will be able to fulfill his commitment to the proposed station without any objection from Hughes does not sufficiently meet the questions raised, and Western's second requested issue will therefore also be added.

15. The statement in paragraph 1 of Maheu's verified complaint in the Nevada litigation that Station KLAS–TV was one of the Hughes properties, and that he (Maheu) "exercised control" over the station raises substantial questions as to whether Maheu exercised control over a broadcast entity without authorization in violation of section 310(b) of the Communications Act of 1934, as amended, and whether the Hughes Tool Co. of which Frank Gay, one of Orange's two largest stockholders, is a Director and Senior Vice-President, relinquished control over the station in violation of the same section of the Act and the accuracy of its representation to the Commission that Raymond M. Holliday would be the Hughes Tool Co. official responsible for establishing and controlling the policies of the station. Again Maheu's explanation falls considerably short of resolving these questions on the basis of the pleadings. His statement that the word "control" did not imply that he had preempted the responsibility vested in Mr.

[5] It may be true, as Orange contends in its response to the Broadcast Bureau's comments, that the Bureau was in error in concluding that all of the properties owned by Hughes at the time of the litigation and listed in Maheu's complaint, were also owned in Mar. 1967. However, any misapprehension on the part of the Bureau is understandable in light of the wording of the above statement, and in any case, whether all of the above properties were involved in Mar. 1967 or not, does not materially affect the questions raised concerning Orange's representations to the Commission.

Holliday and that the word was not used in the sense of control over policy or operations of the properties listed conflicts with the plain meaning and context of the words used in paragraph 1 of his complaint: "the plaintiff Robert A. Maheu has exercised control over the operation in the State of Nevada of certain properties * * *." (emphasis added.) The matter of the control of Station KLAS–TV must be the subject of hearing upon remand. For this limited purpose the Hughes Tool Co. will be made a party to this proceeding. Western's request for a Rule 1.65 issue will also be granted. If petitioner's allegations concerning Maheu's relationship with Hughes; Orange's integration proposal as it pertains to Maheu; and Maheu's connection with KLAS–TV, are true, then questions arise as to whether Orange has failed to keep its application current by disclosure of material changes to the Commission.[6]

16. As previousy indicated, in our decision in the instant proceeding, adopted concurrently with this memorandum opinion and order, we have denied the applications of all of the applicants, with the exception of Orange. Therefore, in accordance with our determinations above, the record in this proceeding will be reopened and Orange's application alone will be remanded for further hearing under the issues added in response to Western's petition. Although all other applicants will remain parties to the proceeding, we emphasize that evidence introduced at the reopened hearing should be restricted to that which is pertinent and relevant to the resolution of the issues designated herein. We contemplate no relitigation of the issues previously designated and no changes in the determinations made except as they may be required by the evidence adduced at the reopened hearing under the issues specified herein. The initial decision of the Hearing Examiner, therefore, should be confined to a discussion of such evidence, and ultimate determinations which are necessitated by reason of the new facts developed at the reopened hearing.

17. *Accordingly, it is ordered,* That the "Motion of Orange Radio, Inc. for Leave to File Response to Broadcast Bureau's Comments on Petition To Enlarge Issues," filed March 19, 1971, is granted, and its response is accepted; and

18. *It is further ordered,* That the "Petition To Enlarge Issues, Re-Open The Record and Remand For Further Hearing", filed February 16, 1971, by Western Broadcasting Corp. is granted; that the record in this proceeding is reopened; that the issues in this proceeding are enlarged by the addition of the following issues:

a. To determine whether Orange Radio, Inc. (Orange), and/or its stockholder, Robert A. Maheu, have made false or misleading representations with respect to the nature of Mr. Maheu's business interests and activities, particularly including their relation to Howard R. Hughes, Hughes Tool Co. and Hughes' Nevada Operation;

b. To determine whether the proposal of Orange for Mr. Maheu to perform certain duties and devote certain time to the proposed Orange station was made in bad faith and without intention that he perform the proposed duties;

c. To determine whether Robert A. Maheu, at any time between March 1967 and December 1970, exercised control over the operation of Station KLAS–TV, Channel 8, Las Vegas, Nev., in violation of section 310(b) of the Communications Act of 1934, as amended (47 U.S.C. section 310(b)), and whether Hughes Tool Co., of which Orange stockholder Frank W. Gay is a Director and Senior Vice President, at any time within the aforesaid period relinquished control over Station KLAS–TV in violation of section 310(b) of the Communications Act or made false or misleading representations to the Commission with respect to operational responsibility for said station;

d. To determine whether Orange Radio, Inc., has failed to report significant and material changes in information previously furnished the Commission, by amending its application and hearing representations from time-to-time as required by § 1.65 of the Commission's rules;

e. To determine, in light of the foregoing, whether Orange Radio, Inc., possesses the requisite qualifications to be a licensee of the Commission;

and that the application of Orange Radio, Inc., is severed from this consolidated proceeding and is remanded for further hearing on the issues added herein; and that all applicants in the consolidated proceeding shall remain parties in this further hearing; and

19. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issues added herein shall be on Western Broadcasting Corp., and that the burden of proof shall be on Orange Radio, Inc.; and

20. *It is further ordered,* That Hughes Tool Co. is made a party to this proceeding, for the limited purposes of participating with regard to issue (c) added herein.

Adopted: May 14, 1971.

Released: May 26, 1971.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
*Secretary.*

[FR Doc.71-7815 Filed 6-3-71;8:53 am]

[6] There appears to be no basis for Western's allegation that Orange failed to report that Sands, Inc., originally represented to be a passive corporation, has become an operating company.

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[Docket No. 19251; FCC 71-541]

## WILLIAM E. RICHARDSON

### Order Designating Application for Hearing on Stated Issues

In regard application of William E. Richardson, 405 Chatterton Avenue, La Puente, CA 91744, for amateur radio station and Technician Class operator license, Docket No. 19251.

The Commission has under consideration the above-entitled application for an amateur radio station license and amateur radio operator (Technician) license filed by William E. Richardson on June 1, 1970.

There is a substantial question concerning the qualifications of the applicant to hold an amateur radio station and operator license arising:

(a) From the revocation of his Class D license in the Citizens Radio Service on June 30, 1969, as a result of numerous violations of Part 95 of the Commission's rules;

(b) From his apparent unlicensed operation of radio apparatus on December 6, 7, and 12, 1969, and November 12, 1970; and

(c) From his apparent radio transmissions during the aforementioned periods, specified in paragraph (b) hereof, which, had he been licensed, would have been in violation of the Commission's rules governing the Citizens Radio Service or the Amateur Radio Service.

The Commission is unable to find that a grant of the captioned application would serve the public interest, convenience and necessity and must, therefore, designate the application for hearing. Except for the issues specified herein, the applicant is otherwise qualified to hold an amateur radio station license and an amateur radio operator (Technician) license.

*Accordingly, it is ordered,* Pursuant to section 309(e) of the Communications Act of 1934, as amended, and § 1.973(b) of the Commission's rules, that the captioned application is designated for hearing, at a time and place to be specified by subsequent order, upon the following issues:

1. To determine the nature and extent of the violations of the Commission's rules, which resulted in the revocation of the applicant's Class D license in the Citizens Radio Service on June 30, 1969.

2. To determine, based upon the evidence adduced pursuant to the foregoing issue, whether the applicant can be relied upon to operate a station in the Amateur Radio Service, in accordance with the terms of his license and the rules and regulations of the Commission.

3. To determine whether, subsequent to the revocation of his license, the applicant engaged in unlicensed operation of radio transmitting apparatus on December 6, 7, and 12, 1969, and November 12, 1970, in violation of section 301 of the Communications Act of 1934, as amended.

4. To determine whether the applicant's transmissions on December 6, 7, and 12, 1969, and November 12, 1970, would have been in violation of the Commission's rules had he been a radio station licensee. These sections include: Sections 95.95(c), 95.41(d), 95.83(a)(1), 97.61 and 97.123.

5. To determine, in light of the evidence adduced pursuant to issues 1 through 4, whether the applicant possesses the qualifications to be a licensee of the Commission.

6. To determine whether, in light of the evidence adduced in respect to the foregoing issues, the grant of the subject application for an amateur radio station and operator (Technician) license would serve the public interest, convenience and necessity.

*It is further ordered,* That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order file with the Commission, in triplicate, a written appearance stating an intent to appear on the date fixed for hearing and to present evidence on the issues specified in this order.

Adopted: May 19, 1971.

Released: May 28, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
*Secretary.*

[FR Doc.71-7816 Filed 6-3-71;8:53 am]

# FEDERAL MARITIME COMMISSION

## CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

### Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

| *Certificate No.* | *Owner/Operator and Vessels* |
|---|---|
| | SCHM |
| 01094--- | St. Andrews Shipping Co., Ltd.: |
| | Dunblane. |
| 02149--- | Tomlinson Fleet Corp.: |
| | S/S Sylvania. |
| | S.S.G.A. Tomlinson. |
| 02158--- | Koraal Scheepvaart Maatschappij N.V.: |
| | Coral Obelia. |
| | Coral Actinia. |
| | Coral Acropora. |
| 02324--- | Monticello Tanker Co.: |
| | Monticello Victory. |
| 02631--- | Partenreederei MS Johannes Bos.: |
| | Johannes Bos. |
| 02780--- | Baltico Compania Naviera S.A.: |
| | Phalcon. |
| 02956--- | Ashland Oil, Inc.: |
| | L. C. LaDuca. |
| | M/V Ashland. |
| | M/V Aetna-Louisville. |
| | M/B Allied-Ashland. |
| | A.O. & R. CO. C-245. |
| | M/V Valvoline. |
| | A.O. & R. CO. C-249. |
| | A.O. & R. CO. C-231. |
| | A.O. & R. CO. S-247. |
| | A.O. & R. CO. S-251. |
| | A.O. & R. CO. C-235. |
| | A.O. & R. CO. C-239. |
| | A.O. & R. CO. B-244. |
| | A.O. & R. CO. B-248. |
| | A.O. & R. CO. S-237. |
| | A.O. & R. CO. S-241. |
| | A.O. & R. CO. C-252. |
| | A.O. & R. CO. B-234. |
| | A.O. & R. CO. B-238. |
| | A.O. & R. CO. S-233. |
| | A.O. & R. CO. B-230. |
| | A.O. & R. CO. C-201. |
| | A.O. & R. CO. B-242. |
| | A.O. & R. CO. B-243. |
| | A.O. & R. CO. B-220. |
| | A.O. & R. CO. S-223. |
| | A.O. & R. CO. S-202. |
| | A.O. & R. CO. B-200. |
| | A.O. & R. CO. B-203. |
| | A.O. & R. CO. C-204. |
| | A.O. & R. CO. S-205. |
| | A.O. & R. CO. B-206. |
| | A.O. & R. CO. C-207. |
| | A.O. & R. CO. C-210. |
| | A.O. & R. CO. S-208. |
| | A.O. & R. CO. B-209. |
| | A.O. & R. CO. S-211. |
| | A.O. & R. CO. B-212. |
| | A.O. & R. CO. C-213. |
| | A.O. & R. CO. S-214. |
| | A.O. & R. CO. B-224. |
| | A.O. & R. CO. S-225. |
| | A.O. & R. CO. C-232. |
| | A.O. & R. CO. C-246. |
| | A.O. & R. CO. C-250. |
| | A.O. & R. CO. C-240. |
| | A.O. & R. CO. 536. |
| | A.O. & R. CO. C-236. |
| | A.O. & R. CO. C-253. |
| | A.O. & R. CO. C-215. |
| | A.O. & R. CO. C-216. |
| | A.O. & R. CO. C-217. |
| | A.O. & R. CO. C-228. |
| | A.O. & R. CO. C-229. |
| | A.O. & R. CO. C-219. |
| | A.O. & R. CO. 100. |
| | A.O. & R. CO. 93. |
| | A.O. & R. CO. 94. |
| | A.O. & R. CO. 95. |
| | A.O. & R. CO. 96. |
| | A.O. & R. CO. 97. |
| | A.O. & R. CO. 98. |
| | A.O. & R. CO. 90. |
| | A.O. & R. CO. 91. |
| | A.O. & R. CO. 92. |
| | TH 1950. |
| | TH 2050. |
| | A.O. & R. CO. C-226. |
| | A.O. & R. CO. C-227. |
| | A.O. & R. CO. C-218. |
| | A.O. & R. CO. 31. |
| | A.O. & R. CO. C-51. |
| | A.O. & R. CO. C-54. |
| | A.O. & R. CO. C-57. |
| | A.O. & R. CO. C-81. |
| | A.O. & R. CO. C-84. |
| | A.O. & R. CO. C-87. |
| | A.O. & R. CO. 34. |
| | A.O. & R. CO. 30. |
| | A.O. & R. CO. 32. |
| | A.O. & R. CO. 33. |
| | A.O. & R. CO. 35. |
| | A.O. & R. CO. 1. |
| | A.O. & R. CO. S-52. |
| | A.O. & R. CO. S-55. |
| | A.O. & R. CO. S-58. |
| | A.O. & R. CO. S-60. |
| | A.O. & R. CO. S-62. |
| | A.O. & R. CO. S-64. |
| | A.O. & R. CO. S-82. |
| | A.O. & R. CO. S-85. |
| | A.O. & R. CO. S-88. |
| | A.O. & R. CO. C-221. |
| | A.O. & R. CO. C-222. |
| | A.O. & R. CO. 28. |
| | A.O. & R. CO. 29. |
| | A.O. & R. CO. 39. |
| | A.O. & R. CO. B-50. |
| | A.O. & R. CO. B-53. |
| | A.O. & R. CO. B-56. |
| | A.O. & R. CO. B-59. |
| | A.O. & R. CO. B-61. |
| | A.O. & R. CO. B-63. |
| | A.O. & R. CO. B-80. |
| | A.O. & R. CO. B-83. |
| | A.O. & R. CO. B-86. |
| | A.O. & R. CO. 19. |
| | A.O. & R. CO. 42. |
| | A.O. & R. CO. 25. |
| | A.O. & R. CO. 26. |
| | A.O. & R. CO. 27. |
| | A.O. & R. CO. 36. |
| | A.O. & R. CO. 37. |
| | A.O. & R. CO. 38. |
| | A.O. & R. CO. 40. |
| | A.O. & R. CO. 41. |
| | A.O. & R. CO. 2. |
| | A.O. & R. CO. 3. |
| | A.O. & R. CO. 4. |
| | A.O. & R. CO. 7. |
| | A.O. & R. CO. 8. |
| | A.O. & R. CO. 9. |
| | A.O. & R. CO. 10. |
| | A.O. & R. CO. 11. |
| | A.O. & R. CO. 12. |
| | A.O. & R. CO. 13. |
| | A.O. & R. CO. 14. |
| | A.O. & R. CO. 17. |
| | A.O. & R. CO. 18. |
| | A.O. & R. CO. 20. |
| | A.O. & R. CO. 21. |
| | A.O. & R. CO. 22. |
| | A.O. & R. CO. 23. |
| | A.O. & R. CO. 24. |
| | A.O. & R. CO. 15. |
| | A.O. & R. CO. 16. |
| | STC-2521-B. |
| | STC 3022. |
| | STC 3023. |
| | MOS 104. |
| | Trina. |
| | Lang. |
| | Mississippi. |
| | STC 2002. |
| | Chuck. |
| | Jonna B. |
| | Menphis. |
| | SS 2021. |
| | SS 2022. |
| | NBC 801. |
| | Ken. |
| | Shad. |
| | E.S.-928. |
| | E.S.-929. |
| | ST-120. |
| | ST-121. |
| | Ellis 2003. |
| | Ellis 2004. |
| | ST-122. |
| | ST-123. |
| | STC 1524 B. |
| | STC 1525 B. |
| | STC 1526 B. |
| | GBL-9. |
| | GBL-10. |

[1] Commissioners Bartley and Robert E. Lee absent.

| Certificate No. | Owner/Operator and Vessels |
|---|---|
| | E.S.-90. |
| | E.S.-931. |
| | MRC-1. |
| | MRC-2. |
| | MRC-3. |
| | MRC-4. |
| | CTC 1005. |
| | Ellis 1251. |
| | Ellis 1252. |
| | NDT 103. |
| | UMI 1204. |
| | UMI 1206. |
| | A.P.C. 2617. |
| | DC 1451. |
| | Beth. |
| | Frank. |
| | PPL-4. |
| | M/L Sarah Jane. |
| | M/V Franklin Pierce. |
| | M/V Walter Curley. |
| | T-9000. |
| | T-10,000. |
| | T-1400. |
| | T-1500. |
| | T-1650. |
| | REB 2201. |
| | REB 2202. |
| | T-2100. |
| | REB 1602. |
| | REB 1603. |
| | T-1600. |
| | T-1800. |
| | T-1701. |
| | T-1700. |
| | T-1250. |
| | T-10,500. |
| | REB 901. |
| | REB 1001. |
| | REB 1002. |
| | REB 1003. |
| | REB 1004. |
| | T-1450. |
| | T-1550. |
| | T-1150. |
| | T-1350. |
| | REB 902. |
| | M-2. |
| | T-5500. |
| | T-9500. |
| | T-8500. |
| | T-1850. |
| | T 100 SL. |
| | T 200 SL. |
| | T-5000. |
| | T-6000. |
| | STC-2005. |
| | STC-2001. |
| | REB 1901. |
| | REB 1902. |
| | T 150 SL. |
| | T 250 SL. |
| | REB 1601. |
| | Ellis 1006. |
| | Ellis 1007. |
| | E.S.-924. |
| | E.S.-925. |
| | E.S.-926. |
| | E.S.-927. |
| | Kevin. |
| | Chris. |
| | S-3. |
| | M-1. |
| | T-6500. |
| | Walker 23. |
| | NMS 40. |
| | NMS 41. |
| | NMS 42. |
| | NMS 43. |
| 03357--- | Kirno Hill Corp.: |
| | Selene. |
| 03434--- | Hoko Suisan K.K.: |
| | Hoko Maru No. 36. |
| | Hoko Maru No. 31. |
| 03613--- | Western Transportation Co.: |
| | No. 46. |
| | No. 35. |
| | Western Meteor. |
| 04307--- | C. F. Bean Inc.: |
| | C. F. Bean. |
| | M. H. Bean. |
| | Mall Spud Barge No. 7. |
| | S. B. Whittington. |
| | Kitty Bean. |
| | Buster Bean. |
| | Bean No. 19. |
| | J. E. Jumonville. |
| | Barge No. 504. |
| 04072--- | Pinasec Investment Corp.-Panama: |
| | Nigeria. |
| 04125--- | Atlantic Towing Ltd.: |
| | Irving Sealion. |
| | Irving Dolphin. |
| | Irving Shark. |
| | Irving Birch. |
| | Scotia Trader. |
| | Irving Maple. |
| 04407--- | Domar Inc.: |
| | Domar 2503. |
| | Domar 2502. |
| | Ceco 2501. |
| | Z-122. |
| | Z-120. |
| | Z-102. |
| | Z-101. |
| | Z-100. |
| | Z-111. |
| | Z-110. |
| | Z-112. |
| | Z-71. |
| 04437--- | Lebeouf Bros. Towing Co. Inc.: |
| | H-2001. |
| 04463--- | Lloret Lopez Sociedad Anonima: |
| | L. Lopez II. |
| | L. Lopez III. |
| | L. Lopez I. |
| 04778--- | Protoklitos Shipping Co., Ltd.: |
| | Protoklitos. |
| 04857--- | Leendert Van Nood: |
| | Joma. |
| 04980--- | Netherlands Mead N.V.: |
| | Santo Antonio. |
| 05210--- | Protoapostolos Shipping Co., Ltd.: |
| | Protoapostolos. |
| 05347--- | Compania Argentina de Navegacion Intercontinental: |
| | Pampa Argentina. |
| 05381--- | Doumarsia Shipping Co. S.A.: |
| | Ioannis. |
| 05493--- | Vasco-Antillean Navigation Co., Ltd.: |
| | Aurrera. |
| 05499--- | Sitia Compania Naviera S.A.: |
| | Costis. |
| 05535--- | Naviera Anayak de Panama, S.A.: |
| | Bizkaya. |
| 05613--- | International World Oceanic Financing & Investment Co. S.A.: |
| | Kastraki. |
| 05649--- | Hekkenikos Ploutos Shipping Co. S.A.: |
| | Atlantis. |
| 05736--- | Flota Cubana de Pesca: |
| | Playa Duaba. |
| | Mar del Plata. |
| | Dorado. |
| | Albacora. |
| | Aguja. |
| | Aguaji. |
| | Juragua. |
| | Jagua. |
| | Castero. |
| | Puerto Esperanza. |
| | Jucaro. |
| | Moron. |
| | Caibarien. |
| | Bahia Honda. |
| | Arroyo de Mantua. |
| | Sierra. |
| | Rabalo. |
| | Rascabio. |
| | Pargo. |
| | Mero. |
| | Merluza. |
| | Medregal. |
| | Machuelo. |
| | Liseta. |
| | Jurel. |
| | Emperadoro. |
| | Damero. |
| | Cubera. |
| | Bonito. |
| | Bajonao. |
| | Arigua. |
| | Arenque. |
| | Anchoa. |
| | Alecrin. |
| | Guasa. |
| | Biajaiba. |
| | Tiburon. |
| | Manjuari. |
| | Cherna. |
| | Camaron. |
| | Golfo de Mexico. |
| | Golfo de Tonkin. |
| | Isla de la Juventud. |
| | Mar Caribe. |
| | Mar Oceano. |
| | Playitas. |
| | Playa Varadero. |
| | Playa Giron. |
| | Playa Colorada. |
| | Oceano Antartico. |
| | Oceano Pacifico. |
| | Oceano Indico. |
| 05744--- | Compania de Navegacion "Colina-Roja": |
| | Federal Salso. |
| 05746--- | Campanella Corp. |
| | U 701. |
| 05756--- | Compagnie Nationale de Navigation: |
| | Nivose. |
| | Passy. |
| | Ventrose. |
| | Concorde. |
| | Frimaire. |
| 05760--- | Reoch Transports Ltd.: |
| | S/S Nordale. |
| | S/A Westdale. |
| | S/S Grovedale. |
| | S/S Pinedale. |
| | S/S Elmadale. |
| 05764--- | Cerrahogullari Umumi Nakliyat Vapurculuk ve Ticaret T.A.S.: |
| | M/S Eregli. |
| | S/S Nadir. |
| | S/S Turkiye. |
| 05845--- | Shinto Kaiun K.K.: |
| | Prima Maru. |
| 05853--- | Sea Hawk Shipping Co., Ltd.: |
| | Megalopolis. |
| 05872--- | Saronikos Compania S.A.: |
| | S/S Pan. |
| 05873--- | Hong Kong Atlantic Shipping Co., Ltd.: |
| | Ngomei Chau. |
| 05887--- | Sincere Navigation Co.: |
| | Portune Enterprise. |
| 05890--- | Enterprise Shipping Co., Ltd.: |
| | Robert Clifton. |
| | Friendship. |
| | Hawthorne Enterprise. |
| 05891--- | Geneva Steamship Co., Inc.: |
| | Silver Dove. |
| 05897--- | Glory Steamship Corp.: |
| | Nationa. |

| Certificate No. | Owner/Operator and Vessels |
|---|---|
| 05899 | Silvics Transportation Ltd.: Silviculture. |
| 05900 | Glacial Sand and Gravel Co.: Big Elmer. |
| 05901 | St. John Shipping Co., Ltd.: Skipper. |
| 05907 | Kommandit-Selskabet AF 4.10-1965: Esbern Snare. |
| 05908 | Kommandit-Selskabet AF 21.11.-1966: Asser Rig. |
| 05909 | Elnavigators Inc.: Patrici L. |
| 05914 | Miaoulis Shipping Enterprises: Aegis Legend. |
| 05918 | Cia. General de Pesquerias y Frigorificos, S.A.: Rio Ason. |
| 05925 | Komrowski Befrachtungskontor KG: Monsoon Current. |
| 05926 | Maritime Services G.m.b.H.: Fiery Cross Isle. Lordofthe Isle. Spindrift Isle. |
| 05934 | Oinoussai Shipping Co., Ltd.: Dalmarin. |
| 05955 | Vega Tanker Corp.: Vega I. |
| 05956 | Procyon Shipping Corp.: Procyon. |
| 05957 | Pollux Shipping Corp.: Pollux. |
| 05958 | Perseus Tanker Corp.: Perseus. |
| 05959 | Cheyenne Shipping Corp.: Pegasus. |
| 05960 | Castor Shipping Corp.: Castor. |
| 05961 | Aries Tanker Corp.: Aries. |
| 05962 | Apache Tanker Corp.: Andromeda. |
| 05963 | Antares Tanker Corp.: Antares. |

By the Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.71-7822 Filed 6-3-71;8:53 am]

## AMERICAN UNION TRANSPORT, INC., ET AL.

### Inactive Tariffs; Notice of Intent to Cancel

The domestic offshore files of the Federal Maritime Commission contain several tariffs which have for a period of time been classified as inactive either due to the absence of any tariff changes for a period of 1 year or longer; or because the Commission's staff has been unable to correspond with the tariff filers; or because the Commission's staff has been advised that the tariff filers no longer offer a common carrier service. The following carriers, including their last known address, fall into the "inactive tariff" category.

American Union Transport, Inc., 15 East 26th Street, New York, NY 10010.

Caribe Isle Shipping Corp., 1218 Northeast 98th Street, Miami Shores, FL 33018.

San Juan Shipping Corp., 2910 Northwest 10th Avenue, Miami, FL 33127.

Scanstar Puerto Rico, Inc., International Trademark, Suite 2346, New Orleans, La. 70130.

Twin Line, Inc., 1039 Paterson Plank Road, Secaucus, NJ 07094.

U.S. Hydrofoils, Lehigh Distribution Services, Inc., 20 Evergreen Place, East Orange, NJ 07018.

Inactive tariffs reflect inaccurate information to the shipping public and serve no useful purpose in the Commission's files. Further, Rule 18(g) of Tariff Circular No. 3, as amended (46 CFR 531.18(g)), requires the cancellation of inactive tariffs; and, accordingly, the Commission proposes to cancel these tariffs in the absence of a showing of good cause as to why they should not be canceled.

*Now, therefore, it is ordered,* That the above carriers advise the Director, Bureau of Compliance at 1405 I Street NW., Washington, DC 20573 in writing within 30 days after the publication of this order in the FEDERAL REGISTER of any reasons why the Commission should not cancel inactive tariffs.

*It is further ordered,* That a copy of this Order be sent by registered mail to the last known address of the carriers listed herein;

*It is further ordered,* That the tariffs of all carriers named herein not responding to this Order be, and they are in such event hereby canceled;

*It is further ordered,* That this notice be published in the FEDERAL REGISTER and a copy thereof filed with any tariff canceled pursuant to this notice.

By the Commission pursuant to authority delegated by section 7.15 of Commission Order No. 1 (Revised) dated September 29, 1970.

AARON W. REESE,
*Managing Director.*

[FR Doc.71-7819 Filed 6-3-71;8:53 am]

## MED-GULF CONFERENCE

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

G. Ravera, Secretary, Med-Gulf Conference, Post Office Box 1070, 16100 Genoa, Italy.

Agreement No. 9522-16, between the member lines of the Med-Gulf Conference, modifies subparagraph (c) of Article 6 of the basic agreement to provide that member lines represented by proxy at Owners Meetings will contribute to form the prescribed quorum.

Dated: June 1, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.71-7820 Filed 6-3-71;8:53 am]

[No. 71-60 (Sub. 1)]

## PACIFIC AUSTRALIA DIRECT LINE AND PACIFIC COAST AUSTRALASIAN TARIFF BUREAU

### Rescheduling of Filing Dates

MAY 28, 1971.

Upon request of counsel for respondents and good cause appearing, filing dates in this proceeding are rescheduled as follows:

1. Requests for hearing and respondents' affidavits of fact and memoranda of law shall be filed on or before June 9, 1971.

2. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and interveners, if any, on or before June 15, 1971.

3. Petitions to intervene shall be filed on or before June 3, 1971.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.71-7821 Filed 6-3-71;8:53 am]

# FEDERAL RESERVE SYSTEM

## TEXAS COMMERCE BANCSHARES, INC.

### Order Approving Action To Become a Bank Holding Company

In the matter of the application of Texas Commerce Bancshares, Inc., Houston, Tex., for approval of action to become a bank holding company.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and section 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Texas Commerce Bancshares, Inc., Houston, Tex. (Applicant), for the Board's prior approval of action whereby Applicant would become a bank holding

company through the acquisition of the successor by merger to Texas Commerce Bank National Association, Houston, Tex. (Texas Commerce). As an incident to the merger, Applicant would acquire the beneficial ownership of more than 20 but less than 25 percent of the shares of each of the following six Texas banks: Airline National Bank of Houston (24.9 percent); North Freeway Bank, Houston 24.9 percent); Reagan State Bank of Houston (24.9 percent); First National Bank of Stafford (24.7 percent); Chemical Bank and Trust Company, Houston (21.1 percent); and Lockwood National Bank of Houston (20.4 percent).

The described shares of the six banks other than Texas Commerce are owned by Texas Commerce Shareholders Co., all the shares of which are held by trustees for the benefit of the shareholders of Texas Commerce. As a result of the merger, Applicant will succeed to beneficial ownership of all of the shares of Texas Commerce Shareholders, Co., and, indirectly, of the described shares of the six banks.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and the Texas Commissioner of Banking, and requested their views and recommendations. Both recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on March 24, 1971 (36 F.R. 5537), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant is a newly-formed organization and has no operating history. Upon acquisition of Texas Commerce ($865 million of deposits), Applicant would become the fourth largest bank holding company in the State and would control about 4 percent of the deposits in the State. (All banking data are as of June 30, 1970, and reflect holding company acquisitions approved through April 30, 1971.)

Texas Commerce is located in downtown Houston. It is the second largest banking organization in the Houston area with control of 16.3 percent of the deposits in the Houston SMSA, which approximates the relevant market. (Texas Commerce will be merged into a nonoperating bank which has significance only as a vehicle to accomplish the acquisition of all the shares of Texas Commerce. Acquisition of the shares of the resulting bank is treated as an acquisition of the shares of Texas Commerce.)

Airline National Bank of Houston ($24 million of deposits), North Freeway Bank ($3 million of deposits), Reagan State Bank of Houston ($54 million of deposits), First National Bank of Stafford ($7 million of deposits), Chemical Bank and Trust Company ($19 million of deposits), and Lockwood National Bank ($26 million of deposits) are all located in areas in or adjacent to the city of Houston.

Texas Commerce acquired its indirect interest in five of the six banks in 1968 in order to establish correspondent relationships with these retail banks and make it a stronger competitor of the other large Houston banks. In 1969 it participated in the organization of, and thereby acquired an interest in, North Freeway Bank. While Texas Commerce presently exerts some influence over the operations of these six banks, the Board notes Applicant's assertion that they "will not be controlled by Applicant [and] they will not be subsidiaries of Applicant within the meaning of the term 'subsidiaries' as defined in the Act." Since it appears that the proposed transaction is essentially a corporate reorganization of existing interests and reflects neither expansion of the group nor an increase in the banking resources controlled by it, consummation of Applicant's proposal is not expected to affect existing or potential banking competition.

On the basis of the record before it, the Board concludes that consummation of this proposal would not have a significant adverse effect on competition in any relevant area. Considerations relating to financial and managerial resources and prospects as they relate to Applicant, Texas Commerce and the six associated banks are consistent with approval of the application. Applicant will begin operations in a satisfactory financial condition and will be able to draw management expertise from Texas Commerce. Its prospects, which depend largely on those of Texas Commerce, are favorable. The convenience and needs of the Houston area will be materially affected by consummation of Applicant's proposal. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

*It is hereby ordered*, For the reasons summarized above, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this Order or (b) later than 3 months after the date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[1] May 27, 1971.

[SEAL] KENNETH A. KENYON,
*Deputy Secretary.*

[FR Doc.71-7740 Filed 6-3-71;8:46 am]

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sherrill.

# GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-105]

## SECRETARY OF DEFENSE

### Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to enter into a multiyear contract for purchase of refuse collection and disposal services from the county of Sacramento, Calif., for use at McClellan Air Force Base, Calif.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(3) and 205(d) (40 U.S.C. 481(a)(3) and 486(d)), authority is delegated to the Secretary of Defense to enter into a contract for a period not to exceed 10 years for the purchase of refuse collection and disposal utility services from the county of Sacramento, Calif., for use at McClellan Air Force Base, Calif.

b. The delegation of authority shall be subject to all provisions of law with respect to such a contract.

c. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

d. A copy of said contract, and any amendments thereto, shall be furnished to the General Services Administration as soon as practicable after the execution thereof.

Dated: May 28, 1971.

ROBERT L. KUNZIG,
*Administrator of General Services.*

[FR Doc.71-7818 Filed 6-3-71;8:53 am]

# NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (71-6)]

## DRAFT ENVIRONMENTAL IMPACT STATEMENT

### Public Notice Regarding Availability

Notice is hereby given of the public availability of the draft Environmental Impact Statement for the Applications Technology Satellite Program of the National Aeronautics and Space Administration.

This ongoing program envisions the utilization of a total of seven satellites (spacecraft), five of which have been launched to date. Experiments carried by the spacecraft relating to the useful applications of space include investigation in the disciplines of communications, navigation, meteorology, data collection,

geodesy, and environment definition. Remaining launches from the Eastern Test Range, Cape Kennedy, Fla., are currently planned for 1973 and 1975.

Comments on the draft Environmental Statement and on matters set forth therein are solicited from, and may be submitted by, State and local agencies and members of the public. Such comments should be submitted to the Associate Administrator, National Aeronautics and Space Administration, Washington, D.C. 20546. All comments must be received within 60 calendar days of the publication of this Notice in the FEDERAL REGISTER in order to be considered in the preparation of the final Environmental Statement and in the ultimate program or activity reassessment.

Copies of the draft statement may be purchased (price $1 each) or examined at any of the following locations:

(a) National Aeronautics and Space Administration, Public Documents Room (Room 126), Independence Avenue SW., Washington, DC 20546.

(b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, Calif. 94035.

(c) Flight Research Center, NASA (Building 4800, Room 1017), Post Office Box 273, Edwards, CA 93523.

(d) Goddard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, Md. 20771.

(e) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, Fla. 32899.

(f) Langley Research Center, NASA (Building 1219, Room 304), Hampton, Va. 23365.

(g) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, OH 44135.

(h) Manned Spacecraft Center, NASA (Building 1, Room 136), Houston, Tex. 77058.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G-11), Huntsville, Ala. 35812.

(j) Mississippi Test Facility, NASA (Building 1100, Room A-213), Bay St. Louis, Miss. 39520.

(k) NASA Pasadena Office (Jet Propulsion Laboratory, Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, CA 91103.

(l) Wallops Station, NASA (Library Building, Room E-105), Wallops Island, Va. 23337.

Done at Washington, D.C., this 29th day of May 1971.

By direction of the Administrator.

WM. E. LILLY,
*Assistant Administrator for Administration.*

[FR Doc.71-7783 Filed 6-3-71;8:50 am]

# RAILROAD RETIREMENT BOARD

## RAILROAD RETIREMENT TAX ACT

### Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. § 3221(c)) as amended by section 5(a) of Public Law 91-215, the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each manhour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1971, shall be at the rate of 6 cents.

Dated: May 27, 1971.

By authority of the Board.

[SEAL] RICHARD F. BUTLER,
*Secretary of the Board.*

[FR Doc.71-7770 Filed 6-3-71;8:49 am]

# SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

## CONTINENTAL VENDING MACHINE CORP.

### Order Suspending Trading

MAY 28, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6-percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered,* Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period May 31, 1971, through June 9, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
*Associate Secretary.*

[FR Doc.71-7755 Filed 6-3-71;8:47 am]

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[811-1088]

## DELTA CAPITAL CORP.

### Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

MAY 27, 1971.

Notice is hereby given that Delta Capital Corp. (Applicant), Post Office Drawer 708, Slidell, LA 70458, a Louisiana corporation licensed as a small business investment company under the Small Business Investment Act of 1958 and registered as a closed-end nondiversified management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Applicant represents that on April 3, 1969, and May 29, 1969, the board of directors and shareholders of Applicant, respectively, adopted a plan of liquidation and dissolution. The dissolution became effective upon certification by the Secretary of State on June 11, 1969.

Applicant further represents that on June 26, 1969, all of its portfolio assets, exclusive of a cash reserve and 22,224 shares of DASA Corp. stock held by Applicant, were transferred to Delta Capital Inc., a wholly owned subsidiary of AVC Corp. for $860,979.30. In addition, Applicant transferred cash to the purchaser in the amount of $521,500, representing principal of $500,000 and accrued interest to date of transfer of Applicant's 5½ percent note to SBA. On July 11, 1969, a pro rata distribution from the proceeds of the sale of Applicant's portfolio securities was made in the aggregate of $1,057,343, and shareholders received their proportionate number of shares of the DASA Corp. stock. With the exception of $208,182 in cash, retained by the Liquidator for the payment of remaining liabilities and any income taxes which may be due for the fiscal year ending March 31, 1969, or until the final dissolution, total assets have been distributed according to the above pro ratio distribution.

Section 8(f) of the Act provides in pertinent part that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 24, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the

Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
*Associate Secretary.*

[FR Doc.71-7756 Filed 6-3-71;8:48 am]

[File No. 1-4692]

## FAS INTERNATIONAL, INC.

### Order Suspending Trading

MAY 27, 1971.

The common stock, 2 cents par value and the 5 percent convertible subordinated debentures due 1989 of FAS International, Inc., being traded on the New York Stock Exchange, Inc., pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of FAS International, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered,* Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period May 27, 1971, 12 m., e.d.t., through June 5, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
*Associate Secretary.*

[PR Doc.71-7757 Filed 6-3-71;8:48 am]

[File No. 24NY-6943]

## FANTONIX ENTERPRISES, INC.

### Order Permanently Suspending Exemption

MAY 27, 1971.

I. Fantonix Enterprises, Inc. (Fantonix) 510 Avenue of the Americas, New York, N.Y., is a New York corporation located at 510 Avenue of the Americas, New York, N.Y. On September 29, 1969, it filed a notification in the New York Regional Office pursuant to Regulation A in connection with a proposed offering of 60,000 shares of its $0.01 par value common stock at $5 per share.

The offering was to be conducted by Fox Securities Co. as underwriter on a best efforts "one-half (30,000) or none" basis. The notification became effective on January 5, 1970.

According to the offering circular Fantonix was organized "for the purpose of engaging in the business (through wholly owned subsidiaries) of importing, wholesaling and retailing merchandise * * *."

II. The Commission on April 14, 1971, temporarily suspended the Regulation A exemption of Fantonix, stating that it had reasonable cause to believe from information reported to it by the staff that:

A. The notification and offering circular contained untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, with respect to the following:

1. The offering circular contained untrue statements of material facts concerning the business of Fantonix, in particular the operations of its two subsidiaries, Fantastic Crates Canal Corp. ("Fantastic") and The House of Onix, Inc. ("Onix");

2. The offering circular contained untrue statements of material facts concerning the proposed use of proceeds of the offering, in particular, that $67,000 of the proceeds will be used to promote the business of Fantastic and Onix through the use of advertising and trade shows; and for assembly facilities for Onix;

3. The offering circular omitted to state material facts concerning the operation of a "rock" magazine called "Crawdaddy" by Fantonix.

B. The terms and conditions of Regulation A have not been complied with in that the issuer has failed to file a Form 2-A report, required by Rule 260, which became due on August 5, 1970.

C. The use of the offering circular by the issuer operated as a fraud and deceit upon purchasers of the securities in violation of section 17(a) of the Securities Act of 1933, as amended.

D. The terms and conditions of Regulation A were not complied with in that the underwriter sold securities of the issuer in violation of Rule 256, which requires the offering circular to be delivered concurrently with, or prior to, the confirmation of the sale.

E. The underwriter (Fox Securities Co.) engaged in practices designed to defraud purchasers, in violation of section 17(a) of the Securities Act of 1933, by means of untrue statements of material facts and omission to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

III. No hearing having been requested by the issuer within 30 days after the entry of an order temporarily suspending the exemption of the issuer under Regulation A, the Commission finds that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be permanently suspended, therefore: *It is ordered,* Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is, permanently suspended.

[SEAL] THEODORE L. HUMES,
*Associate Secretary.*

[FR Doc.71-7758 Filed 6-3-71;8:48 am]

[812-2797]

## GENERAL HOST CORP.

### Notice of Filing of Application for an Order

MAY 26, 1971.

Notice is hereby given that General Host Corp. (Applicant), 245 Park Avenue, New York, NY, a New York corporation and a closed-end, nondiversified management investment company registered under the Investment Company Act of 1940 (Act),[1] has filed an application for an order pursuant to sections 6(c) and 23(c)(3) of the Act, permitting Applicant to purchase, pursuant to an option described below, 437,700 shares (16.7 percent) of Applicant's common stock from The Goldfield Corp. (Goldfield). All interested persons are referred to the application, as amended, which is on file with the Commission, for a statement of the representations therein, which are summarized below.

The 437,700 shares of Applicant's common stock were pledged by Goldfield in 1968 to Union Bank to secure indebtedness to Union Bank of Goldfield in the amount of $4,900,000 (Goldfield Note) and its guaranty of the indebtedness to Union Bank of one of its subsidiary companies, Tantalum Mining Corporation of Canada, Ltd., in the amount of $6,100,000 (Tanco Note). In October 1969, Applicant purchased the "Goldfield Indebtedness" (the Goldfield Note, the Tanco Note, Goldfield's guaranty of the Tanco Note, and the pledge of said 437,700 shares as collateral thereon) from Union Bank by issuing its own note to Union Bank for $11 million. Applicant's note to Union Bank is in turn secured by the Goldfield Indebtedness.

In return for extension of the due date of the Goldfield Note from December 31, 1969 to January 31, 1971, Goldfield granted to Applicant the "Goldfield Option", that is, the right to purchase as a block the 437,700 shares pledged to secure the Goldfield Note and Goldfield's guaranty of the Tanco Note, with the option exercise price to be the average of the daily mean between the high and low sales prices for Applicant's common stock on the New York Stock Exchange on the last 10 trading days prior to the date of Applicant's notice of exercise of the option. Payment may be made by application of the exercise price in payment of the unpaid interest on and principal

[1] Applicant filed a notification of registration on May 15, 1970 and a registration statement on Aug. 13, 1970, each of which states that its filing does not constitute an admission that General Host Corp. is an investment company within the meaning of the Act and sets forth Applicant's express disclaimer that it is an investment company.

amount of the Goldfield Note and the Tanco Note. On February 25, 1970, Applicant's shareholders voted to give Applicant's management discretionary authority to exercise the Goldfield Option.

Upon default in any obligation of Goldfield or Tanco to pay the principal of their indebtedness to Applicant or upon Applicant's failure to enforce its rights against the collateral or in certain other events, the Union Bank may declare Applicant's note to it due and payable and Union Bank may, at its option, realize upon the collateral. Union Bank may also realize upon the collateral under certain other circumstances, including attempts to waive the terms or obligations of the Goldfield Indebtedness or default by Applicant in payment of principal or interest on Applicant's note to Union Bank.

Applicant states that as of June 15, 1970, the $6.1 million Tanco Note was in default in respect to payment of $360,069 of interest and $610,000 of principal, and has remained so since. On or about July 2, 1970 the Applicant formally declared a default with respect to the Tanco Note. Applicant states that as of June 30, 1970, because of $308,836.76 of overdue interest payments on the $4.9 million Goldfield note and the failure of Goldfield to meet certain conditions required for Applicant's consent to the acquisition by Goldfield of real estate in Florida, Goldfield was in default with respect to such note, and has remained so since. On July 20, 1970, Applicant formally declared a default with respect to the Goldfield Note. Applicant states that it is entitled to cause the pledge shares to be sold and apply the proceeds to the Tanco Note and the Goldfield Note.[2]

Applicant indicated that, in order to permit Applicant to recover the maximum amount on the value of the defaulted Goldfield and Tanco notes, it was necessary for Applicant to exercise the Goldfield Option prior to its expiration on January 31, 1971. In an amendment to its application filed January 15, 1971, Applicant represented that, in order to avoid loss of the option through its expiration, it intended to exercise the Goldfield Option on or after January 22, 1971, pursuant to its terms, and requested that if the exercise of the option took place prior to the issuance of the requested exemptive order, the Commission issue an order pursuant to Sections 6(c) and 23(c)(3) to permit the exercise of the option in accordance with its terms. Applicant has undertaken to segregate the 437,700 shares purchased by the exercise of the Goldfield Option so that, in the event that the requested order is not granted, Applicant will be enabled to rescind its exercise of the Goldfield Option or to dispose of such shares in some other manner to which the Commission shall consent.

[2] Goldfield has contested Applicant's declarations of default, and Applicant and Goldfield are presently involved in litigation which involves, among other things, Applicant's right to claim the pledged shares.

Applicant states that on January 25, 1971, Applicant delivered notice of exercise of the Goldfield Option, thereby exercising the Goldfield Option, and that on January 28, 1971, pursuant to the terms of the Goldfield Option, its exercise was complete without any further act by Applicant. The exercise price was $12.9625 per share, resulting in an aggregate exercise price of $5,673,686.25, and was paid by applying that amount to accrued interest on the Goldfield Note, overdue interest on the Tanco Note, and $4,374,945.51 of principal of the Goldfield Note.

Section 23(c) of the Act provides, in pertinent part, that no registered closed-end investment company shall purchase any securities of any class of which it is the issuer except (1) on a securities exchange, (2) pursuant to tenders, or (3) under such other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors to insure that such purchases are made in a manner or on a basis which does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 15, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be informed if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advise as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] THEODORE L. HUMES, *Associate Secretary.*

[FR Doc.71-7759 Filed 6-3-71;8:48 am]

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[File No. 500-1]

## LADD MOUNTAIN MINING CO.

### Order Suspending Trading

MAY 27, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Ladd Mountain Mining Co. and all other securities of Ladd Mountain Mining Co. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered,* Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period May 27, 1971, 2 p.m., e.d.t., through June 5, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES, *Associate Secretary.*

[FR Doc.71-7760 Filed 6-3-71;8:48 am]

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[812-1350]

## PARIBAS CORP.

### Notice of Filing of Application for Order Rescinding Prior Order Exempting Company From All Provisions of the Act

MAY 27, 1971.

Notice is hereby given that Paribas Corp. (Applicant), 40 Wall Street, New York, NY 10005, a Delaware corporation, has applied for an order of the Commission rescinding an earlier order which, pursuant to section 6(c) of the Investment Company Act of 1940 (Act), conditionally exempted Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was caused to be organized on October 11, 1960, by Banque de Paris et des Pays Bas, S.A. (Banque de Paris), a French corporation, for the purpose of eventually engaging primarily in underwriting and distributing securities; selling securities to customers; and participating in brokerage transactions. Applicant required at that time, an order of exemption from all provisions of the Act since it was initially to engage primarily in investing, reinvesting and trading securities for its own account.

Applicant received an order of the Commission (1961 order) (Investment

Company Act Release No. 3179, January 25, 1961) exempting it from all provisions of the Act provided that:

(1) Paribas will notify the Commission of the issuance by it of any securities (other than short-term paper) to any person other than Banque de Paris;

(2) Paribas will provide the Commission with a copy of each annual report of Banque de Paris beginning with the report for 1960;

(3) Paribas will notify the Commission of any offering in the United States by Banque de Paris of any security of which said Banque de Paris is the issuer, and, so far as is known to it, of the holding by any U.S. resident of any security issued by Banque de Paris.

The Commission also reserved jurisdiction to modify or revoke the 1961 order if, in its opinion, subsequent facts made such action necessary or appropriate.

Applicant states that when the 1961 order was requested, it was anticipated that the brokerage activities described above would eventually become its primary business, and at such time Applicant would be excepted from the definition of an investment company as a broker-dealer pursuant to the provisions of section 3(c)(2) of the Act. The 1961 order stated "When such activities shall have become the primary business of Paribas * * * Paribas will be excepted from the definition of an investment company * * * pursuant to the provisions of section 3(c)(2) * * *." Section 3(c)(2) of the Act excepts from investment company status, "Any person primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, and acting as broker, or any one or more of such activities, whose gross income normally is derived principally from such business and related activities."

Applicant asserts that it is a broker-dealer registered in California, Connecticut, Maine, Maryland, New York, Massachusetts, New Hampshire, Ohio, Rhode Island, Vermont, and Wisconsin; that for at least the past 3 years Applicant's primary business activity has been as a major participant in the underwriting business; and that Applicant is primarily engaged in and normally derives its income from underwriting, selling securities to customers, and acting as a broker.

The application sets forth the following percentage breakdown of gross income for Applicant for the years ended September 30, 1967, 1968, and 1969:

| Source of income | Oct. 1, 1966 to Sept. 30, 1967 | Oct. 1, 1967 to Sept. 30, 1968 | Oct. 1, 1968 to Sept. 30, 1969 |
|---|---|---|---|
| | *Percent* | *Percent* | *Percent* |
| Underwriting | 50.44 | 51.31 | 80.60 |
| Trading accounts | 27.05 | 18.25 | [1] (19.61) |
| Commissions | 10.22 | 2.64 | 5.78 |
| Investment securities | 8.09 | 22.64 | 15.19 |
| Dividends | 2.72 | 1.82 | 2.08 |
| Interest income | 1.48 | .85 | 4.50 |
| Private placement fees | | 2.49 | 11.46 |
| | 100.00 | 100.00 | 100.00 |

[1] Paribas sustained substantial losses in trading accounts during 1969.

Applicant, therefore, asserts it is not an investment company pursuant to section 3(c)(2) of the Act and requests that the 1961 order be rescinded.

Notice is further given that any interested person may not later than June 21, 1971, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] THEODORE L. HUMES,
*Associate Secretary.*

[FR Doc.71-7761 Filed 6-3-71;8:48 am]

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[File No. 24NY-6823]

## TECH-EC SYSTEMS, INC.

### Order Permanently Suspending Exemption

MAY 27, 1971.

I. Tech-Ec Systems, Inc. (TES), 124 East 40th Street, New York, NY, is a New York corporation located at 124 East 40th Street, New York, NY. On June 17, 1969 it filed a notification in the New York Regional Office pursuant to Regulation A in connection with a proposed offering of 60,000 shares of its $0.01 par value common stock at $5 per share. The offering was to be conducted by the company through its officers and directors without the use of an underwriter. The offering commenced on September 21, 1969.

On October 28, 1969 a post-effective amendment was filed adding TDA Securities, Inc. (TDA) as an underwriter of the offering.

The offering recommenced on May 22, 1970. The amended offering circular provided that TES would offer 100,000 shares of its $0.01 par value common stock at $3 per share on a best efforts "one-fifth (20,000 shares) or none" basis. If the minimum number of shares was not sold within 90 days of the amended effective date, all funds were to be returned to subscribers.

According to the offering circular TES was organized "for the purpose of offering a broad range of management, consulting, investment, and financial services * * *"

II. The Commission on January 28, 1971, temporarily suspended the Regulation A exemption of TES, stating that it had reasonable cause to believe from information reported to it by the staff that:

A. The notification and offering circular contained untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, with respect to the following:

1. The offering circular is materially false and misleading in that the issuer failed to conduct the offering in accordance with the terms set forth therein. More particularly the minimum number of shares required to be sold within a 90-day designated period was never reached yet the offering was continued and no funds were ever returned to subscribers as conditioned in the offering circular. In addition, funds received from the public were deposited in the "special account" described in the offering circular, after the 90-day period had expired.

2. The notification and offering circular failed to state that one Michael Hellerman would participate as an underwriter in the offering as that term is defined in section 2(11) of the Securities Act of 1933.

3. The offering circular omitted to state material facts concerning an injunction filed November 24, 1969, in the U.S. District Court for the Southern District of New York restraining Michael Hellerman from further violations of sections 5(a) and 5(c) of the Securities Act of 1933 in connection with the sale of Trimatrix, Inc., stock.

4. The offering circular contained untrue statements concerning the sale of shares to the public, in particular, that 100,000 shares of TES would be issued to the public only if payment in the amount of $300,000 (less commissions and expenses of the underwriter) was received by TES. In fact only a small fraction of that amount was received by TES despite the issuance of 100,000 shares of stock to the public.

B. Michael Hellerman, an undisclosed underwriter, and the subject of an injunction restraining him from further violation of sections 5(a) and 5(c) of the Securities Act of 1933, commenced participation in the offering after the filing of the notification and such participation is therefore deemed an event which would have rendered the exemption unavailable if it had occurred prior to such filing.

C. The use of the offering circular by the issuer operated as a fraud and deceit upon purchasers of the securities in violation of section 17(a) of the Securities Act of 1933, as amended.

III. No hearing having been requested by the issuer within 30 days after the entry of an order temporarily suspending the exemption of the issuer under Regulation A, the Commission finds that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be permanently suspended, therefore: *It is ordered*, Pursuant to Rule 261 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is, permanently suspended.

[SEAL] THEODORE L. HUMES,
*Associate Secretary.*

[FR Doc.71-7762 Filed 6-3-71;8:48 am]

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[812-2929]

## WASHINGTON NATIONAL INSURANCE CO. AND WASHINGTON NATIONAL VARIABLE ANNUITY FUND B

### Notice of Application for Exemption From the Provisions of the Act as Amended

MAY 27, 1971.

Notice is hereby given that Washington National Insurance Co. (Washington National), 1630 Chicago Avenue, Evanston, IL 60201, a stock life insurance company organized under the laws of the State of Illinois, and Washington National Variable Annuity Fund B (Variable Fund B), a unit investment trust registered under the Investment Company Act of 1940, as amended (Act), hereinafter collectively called "Applicants", have filed an application pursuant to section 6(c) of the Act for an order of exemption to the extent noted below from the provisions of section 27(h)(5) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Variable Fund B was established by Washington National in connection with the proposed sale to individuals of variable annuity contracts (Contracts). Net purchase payments under Contracts will be allocated to Variable Fund B and invested in shares of Washington National Fund, Inc. (Fund), an open-end investment company registered under the Act.

Variable Fund B was established by the Board of Directors of Washington National on April 30, 1968, pursuant to the laws of Illinois. Under these laws, Variable Fund B is an integral part of Washington National. The latter holds all of the assets of Variable Fund B and is responsible for the performance of the obligations of Variable Fund B under the Contracts. However, under the Illinois Insurance Code, the income, gains and losses of Variable Fund B may be credited to or charged against the amounts allocated to it in accordance with the Contracts without regard to the other income, gains or losses of Washington National, and the assets of Variable Fund B are not chargeable with liabilities arising out of any other account or business Washington National may conduct.

Applicants request exemption from the following provisions of the Act to the extent stated below:

Section 27(h)(5), in pertinent part, prohibits the sale of periodic payment plan certificates if the first payment on such certificate is less than $20 or any subsequent payment is less than $10.

The periodic payment Contracts issued by Applicants prohibit any payment of less than $10 and require a purchase payment schedule of at least $100 annually. It is, therefore, possible that an initial payment of less than $20 may be made. Applicants further state that a requirement of a minimum initial payment of $20 might eliminate uniformity in periodic payments and would create administrative and accounting burdens for Variable Fund B and for any employers making payroll deductions. The sales and administrative expense deduction is made from each periodic payment through the first year of each Contract and there is no special charge imposed solely upon or in connection with the first such payment. Deductions will be uniform over the period of the first year of each Contract, and Applicants represent that there is no need for any special treatment of the initial payment.

On October 17, 1969, Washington National and Variable Fund B were granted various exemptions from the 1940 Act. Release IC-5850. Included in the exemption order was an exemption from section 27(a)(4) to permit initial purchase payments under periodic purchase payment Contracts to be less than $20 (but not less than $10). The provisions of section 27(h)(5) are identical to (and alternative to) the provisions of section 27(a)(4). Variable Fund B intends to elect under section 27(g) to be governed by the provisions of section 27(h) rather than those of section 27(a), and an exemption from section 27(h)(5) is requested to the same extent as the present exemption from section 27(a)(4).

Section 6(c) provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 10, 1971 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] THEODORE L. HUMES,
*Associate Secretary.*

[FR Doc.71-7763 Filed 6-3-71;8:48 am]

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[812-2943]

## WASHINGTON NATIONAL INSURANCE CO. AND WASHINGTON NATIONAL VARIABLE ANNUITY FUND A

### Notice of Application for Exemption From the Provisions of the Act as Amended

MAY 27, 1971.

Notice is hereby given that Washington National Insurance Co. (Washington National), 1630 Chicago Avenue, Evanston, IL 60201, a stock life insurance company organized under the laws of the State of Illinois, and Washington National Variable Annuity Fund A (Variable Fund A), a unit investment trust registered under the Investment Company Act of 1940 (Act), hereinafter collectively called "Applicants", have filed an application pursuant to section 6(c) of the Act for an order of exemption to the extent noted below from the provisions of section 27(h)(3) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Variable Fund A was established by Washington National in connection with the proposed sale of variable annuity contracts (Contracts) intended to provide annuities under plans or trusts initially qualifying under section 401 or 403 of the Internal Revenue Code. Net purchase payments under Contracts will be allocated to Variable Fund A and invested in shares of Washington National Fund, Inc., an open-end investment company registered under the Act.

On September 8, 1969, Washington National and Variable Fund A were granted various exemptions from the

Act. Release IC–5806. Included in the exemption order was an exemption from section 27(a)(3) to permit a sales and administrative deduction of 6 percent, plus a charge of 50 cents per payment: *Provided, however,* That the aggregate of such charges with respect to any payment shall not exceed 9 percent.

Variable Fund A intends to elect under section 27(g) of the Act to be governed by section 27(h) (effective June 14, 1971) rather than section 27(a). Section 27(h)(3) contains provisions similar to those of section 27(a)(3) prohibiting any sales charge made during a period, included among certain specified periods, from exceeding proportionately any other sales charge on any other payment made during the same period. Applicants request an exemption from section 27(h)(3) to the same extent as the exemption previously granted from section 27(a)(3) in order to permit the 50 cents per payment charge which, if the amount of any payment made during a period varied from the amount of any other payment, would result in a proportionately different sales charge.

Applicants represent that under the group Contracts the deduction from each and every payment will be uniform and not more than 9 percent, that is, 6 percent, plus 50 cents; and that the 50 cents per payment deduction relates to the cost of processing each purchase payment and is fair and equitable to the participants because the cost of processing a purchase payment is the same regardless of the size of the payment.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 10, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] THEODORE L. HUMES,
*Associate Secretary.*

[FR Doc.71–7764 Filed 6–3–71;8:48 am]

# TARIFF COMMISSION

[TEA–F–23]

## PLA MOC INC.

### Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

*Investigation instituted.* Upon petition under section 301(a)(2) of the Trade Expansion Act of 1962, filed by Pla Moc Inc., Lynn, Mass., the U.S. Tariff Commission, on June 1, 1971, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with women's and misses' footwear of the types produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

The petitioner has not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

*Inspection of petition.* The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: June 1, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
*Secretary.*

[FR Doc.71–7831 Filed 6–3–71;8:54 am]

# INTERSTATE COMMERCE COMMISSION

[Notice 45]

## MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

MAY 28, 1971.

The following applications are governed by Special Rule 100.247[1] of the Commission's general rules of practice (49 C.F.R., as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 2962 (Sub-No. 46), filed May 5, 1971. Applicant: A. & H. TRUCK LINE, INC., 1111 East Louisiana Street, Evansville, IN 47717. Applicant's representative: Robert H. Kinker, 711 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Hammond and Indianapolis, Ind., from Hammond over Interstate Highway 80 to the junction of Interstate Highway 65, thence over Interstate Highway 65 to Indianapolis, Ind., and return over the same route, as an alternate route for operating convenience only in connection with applicant's authorized regular-route operations, serving no intermediate points and serving the termini for purpose of joinder only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 2860 (Sub-No. 98), filed May 12, 1971. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, NJ 08360. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt and cereal beverages and beer tonic*, in glass bottles or cans, in boxes or in bulk in barrels, from Winston-Salem, N.C., to points in New Jersey and New York, N.Y., and its commercial zone; and (2) *empty containers, barrels, bottles, cartons, pallets, fillers, and partitions*, from points in New Jersey and New York, N.Y., and its commercial zone to Winston-Salem, N.C., on return. NOTE: Applicant states that tacking is feasible at the New Jersey destination points to and from New England and Middle Atlantic States. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 3468 (Sub-No. 161), filed May 13, 1971. Applicant: F. J. BOUTELL DRIVEAWAY CO., INC., 705 South Dort Highway, Flint, MI 48501. Applicant's representative: Harry C. Ames, Jr., Suite 705—666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except trailers), in initial movements, in truckaway service, from Linden, N.J., and Wilmington, Del., to points in Illinois, Indiana, Michigan, New York, Ohio, Pennsylvania, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 5470 (Sub-No. 62), filed May 11, 1971. Applicant: TAJON, INC., Rural Delivery 5, Box 146, Mercer, PA 16137. Applicant's representative: Donald E. Cross, 917 Munsey Building, 1329 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys and ores*, in dump vehicles, from Ashtabula and Marietta, Ohio, and Alloy, W. Va., to points in North Carolina and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 10173 (Sub-No. 12) (Correction), filed May 3, 1971, published in the FEDERAL REGISTER issue of May 27, 1971, and republished in part, as corrected, this issue. Applicant: MARVIN HAYES LINES, INC., Guthrie Highway-Hayes Circle, Clarksville, TN. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, TN 37219. NOTE: The sole purpose of this partial republication is to show the correct docket number as MC 10173 (Sub-No. 12) in lieu of MC 107173 (Sub-No. 12) which was inadvertently shown in the previous publication. The rest of the application remains as previously published.

No. MC 11220 (Sub-No. 122), filed May 10, 1971. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38102. Applicant's representative: Robert E. Joyner, 211 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and commodities requiring special equipment), serving the plantsite and storage facilities of Wm. Wrigley, Jr., Co. at or near Flowery Branch, Ga., as an off-route point in connection with carrier's regular-route operation from and to Atlanta, Ga., restricted to the transportation of shipments moving from, to, or through points in Alabama and/or Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 25869 (Sub-No. 107) (Correction), filed April 15, 1971, published in the FEDERAL REGISTER issue of May 6, 1971, corrected, and republished as corrected this issue. Applicant: NOLTE BROS. TRUCK LINE, INC., 4734 South 27th Street, Omaha, NE 68107. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 9100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, from Greeley, Colo., to points in Minnesota, Indiana, Missouri, Iowa, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. The purpose of this application is to redescribe the scope of authority sought. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Denver, Colo.

No. MC 25869 (Sub-No. 108), filed May 10, 1971. Applicant: NOLTE BROS. TRUCK LINE, INC., 4734 South 27th Street, Omaha, NE 68107. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Iowa City and Muscatine, Iowa, to points in Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 34227 (Sub-No. 5) (Correction), filed April 9, 1971, published in the FEDERAL REGISTER issues of May 13 and May 27, 1971, and republished in part, as corrected, this issue. Applicant: PACIFIC INLAND TRANSPORTATION CO., a corporation, 15 South Broadway, Cortez, CO 81321. Applicant's representatives: David R. Parker, Post Office Box 82028, Lincoln, NE 68501, and A. Jack Hamilton (same address as applicant). NOTE: The sole purpose of this partial republication is to also reflect Mr. David R. Parker as applicant's representative, which was inadvertently omitted from the previous publication. The rest of the application remains as previously published.

No. MC 44639 (Sub-No. 35) (Amendment), filed April 23, 1971, published in the FEDERAL REGISTER issue of May 20, 1971, and republished as amended, this issue. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacturing of wearing apparel (except commodities in bulk), between Roxobel, N.C., on the one hand, and, on the otheer, Emporia and Crewe, Va., and New York, N.Y. NOTE: Applicant states it will tack at Crewe and Emporia, Va., to provide through service to points in New Jersey and New York. The purpose of this republication is to redescribe the authority sought. If a hearing is deemed necessary, applicant requests it be held at Wilson, N.C., or Washington, D.C.

No. MC 45134 (Sub-No. 7), filed May 10, 1971. Applicant: COLLINS TRUCK LINE, INC., 3705 Marshall Street, Minneapolis, MN 55451. Applicant's representative: Louis I. Dailey, Suite 2205 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and*

*petroleum products*, in containers, *gasoline additives*, in containers, *antifreeze*, in containers, *tires, batteries, and service station accessories and supplies*, from the blending plant, warehouses and storage facilities of Mobil Oil Corp. in the St. Paul-Minneapolis, Minn., commercial zone to points in Montana, traversing North Dakota and/or South Dakota for operating convenience only. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Kansas City or St. Louis, Mo.

No. MC 45134 (Sub-No. 8), filed May 10, 1971. Applicant: COLLINS TRUCK LINE, INC., 3705 Marshall Street, Minneapolis, MN 55451. Applicant's representative: Louis I. Dailey, Suite 2205 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in containers, *gasoline additives*, in containers, *antifreeze*, in containers, *tires, batteries, and service station accessories and supplies*, from the blending plant, warehouses and storage facilities of Mobil Oil Corp. located in the St. Paul-Minneapolis, Minn., commercial zone as defined by the Interstate Commerce Commission to points in North Dakota; and (2) *building and roofing materials*, from points in the St. Paul-Minneapolis, Minn., commercial zone to points in North Dakota, traversing South Dakota for operating convenience only in (1) and (2). NOTE: Applicant states that the commodities described in Part (1) hereof must all originate at the blending plant, warehouses and storage facilities of Mobil Oil Corp. located in the St. Paul-Minneapolis commercial zone whereas Part (2) is not so restricted. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Kansas City or St. Louis, Mo.

No. MC 46280 (Sub-No. 70) (Correction) filed April 22, 1971, published in the FEDERAL REGISTER issue of May 13, 1971, and republished as corrected this issue. Applicant: KEY LINE FREIGHT, INC., 15 Andre Street SE., Grand Rapids, MI 49507. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Detroit, Mich., on the one hand, and, on the other, Omaha, Nebr.; Louisville, Ky.; St. Louis, Mo.; Evansville and Vincennes, Ind., those in Iowa on and east of U.S. Highway 65; those in Minnesota, on, east, and and south of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 65 to Minneapolis, Minn., and from Minneapolis along U.S. Highway 12 to the Minnesota-Wisconsin State line. NOTE: This application does not involve service to any new points to or from Detroit, Mich., and is filed for the sole purpose to eliminate the necessity of going through the present gateway point of Bath, Mich. Applicant is already engaged in extensive operations between Detroit and the involved points and thus the elimination of the gateway will not result in service to any new points or any different service from that which has been conducted by applicant for a considerable period of time. Actually by bypassing the tacking point of Bath, Mich., the mileage savings to all of the involved territory will be less than 10 percent. Applicant further states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe and clarify the authority sought, a portion which was inadvertently omitted from previous publication. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 57311 (Sub-No. 9), filed May 10, 1971. Applicant: PUTNAM TRANSFER & STORAGE CO., a corporation, 1502 Woodlawn Avenue, Zanesville, OH 43701. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular/irregular routes, transporting: (1) Regular routes: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk, and those requiring special equipment), between Crooksville and Zanesville, Ohio: From Crooksville over Ohio Highway 75 to Zanesville, and return over the same route. Service is authorized to and from all intermediate points, and the off-route points of Redfield, Saltillo, Zanesville Municipal Airport, and the intersection of Interstate Highway 70 and Ohio Highway 797. (2) Irregular routes: Between Zanesville Municipal Airport, Perry Township, Muskingum County, Ohio, and the intersection of Interstate Highway 70 and Ohio Highway 797, on the one hand, and, on the other, points in Ohio. NOTE: Applicant states it intends to tack the authority sought in Part (1) with that sought in Part (2) and with present authority in Sub 5, so as to provide service between all points in Ohio. Applicant presently holds authority in its Subs 1 and 7 to perform all service sought. The purpose of this application is to obtain the alternate gateway of intersection of Interstate Highway 70 and Ohio Highway 797. No duplicate authority is being sought and it is willing to accept any appropriate restriction concerning same. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 58549 (Sub-No. 12), filed May 12, 1971. Applicant: CLINE MUNDY, doing business as GENERAL MOTOR LINES, 526 Orange Avenue, Roanoke, VA 24016. Applicant's representative: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Roanoke, Va., on the one hand, and, on the other, Alleghany and Bath Counties, Va. NOTE: Applicant states it proposes to tack at Roanoke, Va., with existing authorities to provide a through service. If a hearing is deemed necessary, applicant requests it be held at Roanoke, Va.

No. MC 67200 (Sub-No. 36) (Amendment), filed April 21, 1971, published in the FEDERAL REGISTER issue of May 13, 1971, and republished as amended this issue. Applicant: THE FURNITURE TRANSPORT COMPANY, INC., Post Office Box 392, Furniture Row, Milford, CT 07470. Applicant's representative: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wheel goods, baby and doll carriages and parts, carriage hardware and parts, childrens' vehicles, including, but not limited to bicycles and tricycles*, from Mahwah, N.J., and Gardner, Mass., to points in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to add Gardner, Mass., as an origin point and West Virginia, North Carolina, South Carolina, Georgia, and Alabama as destination States. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or New York, N.Y.

No. MC 69224 (Sub-No. 39), filed May 6, 1971. Applicant: H & W MOTOR EXPRESS COMPANY, a corporation, 3000 Elm Street, Dubuque, IA 52001. Applicant's representative: Urban R. Haas, 3000 Elm Street, Dubuque, IA 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, articles* distributed by meat packinghouses, and *such commodities* as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as defined by the Commission (except commodities in bulk in tank vehicles, and hides), between plant and warehouse facilities of the Dubuque Packing Co., Dubuque, Iowa, on the one hand, and, on the other, points in Illinois, Indiana, Minnesota, and Wisconsin, and the St. Louis, Mo., commercial

zone as defined by the Commission. NOTE: Applicant states that the requested authority cannot be tacked with its existing authoriy. If a hearing is deemed necessary, applicant requests it be held at (1) Dubuque, Iowa, (2) Chicago, Ill., or (3) Des Moines, Iowa.

No. MC 69275 (Sub-No. 41), filed May 3, 1971. Applicant: M & M TRANSPORTATION COMPANY, a corporation, 186 Alewife Brook Parkway, Cambridge, MA 02138. Applicant's representative: Herbert Burstein, 30 Church Street, New York, NY 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious or contaminating to other lading), over regular routes, between Scranton, Pa., and Syracuse, N.Y., serving all intermediate points in New York, off-route points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 15 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 6; and on and south of U.S. Highway 6 from said junction of U.S. Highways 6 and 11 to the Pennsylvania-New York State line; and those in Broome, Cayuga, Chemung, Chenango, Cortland, Madison, Onondago, Schuyler, and Tioga Counties, N.Y., from Scranton over U.S. Highway 11 to Syracuse and return over the same route. NOTE: Applicant will tack at Syracuse, N.Y., in order to provide service between all points which it is presently authorized to serve in the State of New York, and at Scranton, Pa., in order to provide service to all points which it is presently authorized to serve in the Commonwealth of Pennsylvania. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 69901 (Sub-No. 25), filed May 14, 1971. Applicant: COURIER-NEWSOM EXPRESS, INC., Post Office Box 270, Columbus, IN 47201. Applicant's representative: L. R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment, (1) between Madison and Columbus, Ind., over Indiana Highway 7 and (2) between Louisville, Ky., and Madison, Ind., as follows: From Louisville, Ky., over Interstate Highway 65 to junction Indiana Highway 62, thence over Indiana Highway 62 to Madison, Ind., and return over the same route. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 74361 (Sub-No. 9), filed May 4, 1971. Applicant: BOB MENDENHALL, doing business as OKLAHOMA BORDER EXPRESS, 903 South Y Street, Fort Smith, AR 72901. Applicant's representative: Thomas Harper or Tom Harper, Jr., Post Office Box 43, Kelley Building, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Webbers Falls, Okla., and Tulsa, Okla.; from Webbers Falls over U.S. Highway 64 to junction Muskogee Turnpike, thence over Muskogee Turnpike and Oklahoma Highway 51 to Tulsa and return by the same route, serving no intermediate points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla., Fort Smith, Ark., or Oklahoma City, Okla.

No. MC 102343 (Sub-No. 13), filed May 6, 1971. Applicant: JOHN KAUSER TRUCKING SERVICE, INC., 850 West Harrison, Paulding, OH 45879. Applicant's representative: James M. Burtch, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Jackson Township, Paulding County, Ohio, to points in Indiana and Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 103993 (Sub-No. 635), filed May 11, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representatives: Paul D. Borghesani (same address as applicant) and Ralph H. Miller (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movements, from points in Outagamie County, Wis., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 105045 (Sub-No. 31), filed May 13, 1971. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville, IN 47708. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, aluminum articles, and carbon electrodes*, from Lake Charles, La., to points in New Mexico, Colorado, Nebraska, South Dakota, North Dakota, and all points east thereof. NOTE: Applicant states that tacking is possible but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 106274 (Sub-No. 15), filed May 10, 1971. Applicant: RAEFORD TRUCKING COMPANY, a corporation, Landis Street, Sanford, NC 27330. Applicant's representative: J. L. Keith, Post Office Box 45, Sanford, NC 27330. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiberboard, wood fiberboard faced, or finished with decorative and/or protective material, and accessories and supplies* used in installation thereof (except commodities in bulk), from Moncure, N.C., to points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C., or Washington, D.C.

No. MC 106644 (Sub-No. 118), filed May 10, 1971. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., Post Office Box 916, Atlanta, GA 30301. Applicant's representative: K. Edward Wolcott, 1600 First Federal Building, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, and parts* used on the construction, assembly, servicing, and operation of boats, barges, ships, and other vessels, between the plantsites of Litton Systems, Inc., at Pascagoula, Miss., on the one hand, and, on the other, points in Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin. NOTE: Applicant states that there are tacking possibilities but it has no present intention to tack. Applicant could tack with its existing size and weight authority in its lead certificate, Sub 30, Sub 41, and Sub 106. Applicant has pending under MC 104724 Sub 93, contract carrier authority, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at (1) New Orleans, La.; (2) Miami, Fla.

No. MC 107162 (Sub-No. 30), filed May 10, 1971. Applicant: NOBLE GRAHAM, Brimley, Mich. 49715. Applicant's representative: Philip H. Porter or John D. Varda, 121 South Pinckney Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hardwood flooring systems;*

*hardwood flooring; lumber and lumber products; and accessories and supplies* used in the installation thereof, from the plant warehouse sites of Robbins Flooring Co., at or near Ishpeming, Mich., and White Lake, Wis., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, District of Columbia, and east of U.S. Highway 183 in Nebraska; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of commodities above from the above-named destination States to plant and warehouse sites of Robbins Flooring Co., located at Ishpeming, Mich., and White Lake, Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Green Bay, Madison, or Milwaukee, Wis.

No. MC 107496 (Sub-No. 810), filed May 10, 1971. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, IA 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, including *paint and paint materials, fillers, lacquers, stains, varnish, resins, and shellacs*, from Fort Wayne, Ind., to points in West Virginia, North Carolina, South Carolina, Georgia, Kentucky, Tennessee, Alabama, Mississippi, Ohio, Pennsylvania, and Indiana; (2) *Municipal sewages, sewage sludge, and salt water*, in bulk, from points in the United States to Rothschild, Wis., and (3) *Resin and lacquer*, in bulk, from Kansas City, Mo., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Minnesota, Nebraska, Ohio, Oklahoma Wisconsin, and Wyoming. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

No. MC 111170 (Sub-No. 161), filed May 14, 1971. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, El Dorado, AR 71730. Applicant's representative: Don A. Smith, Post Office Box 43, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Defluorinated phosphate feed supplements*, in bulk, and in bags, from North Little Rock, Ark., to points in Louisiana, Missouri, Mississippi, Kansas, Kentucky, Illinois, Oklahoma, Tennessee, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 111231 (Sub-No. 169) (Amendment), filed December 7, 1970, published in the FEDERAL REGISTER issue of January 14, 1971, and republished as amended, this issue. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Applicant's representative: James B. Blair, 111 Holcomb Street, Post Office Box 869, Springdale, AR 72764. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (a) *Iron or steel or iron or steel articles*, having prior water transportation, from points in Arkansas and Oklahoma located on the Arkansas-Verdigris Rivers, to points in Arkansas, Kansas, Oklahoma, and Texas; and (b) *iron or steel articles*, from Carlinville, Ill., to points in Arkansas, Oklahoma, Missouri (except St. Louis County, Mo.), Kansas, and Texas. NOTE: Applicant states that it proposes to tack with existing authorities in its base certificate No. MC 111231. The purpose of this republication is to redescribe the authority sought. If a hearing is deemed necessary, applicant requests it be held at Fort Smith or Little Rock, Ark., or St. Louis or Kansas City, Mo.

No. MC 111812 (Sub-No. 423), filed May 12, 1971. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk, in tank vehicles), from the plantsite or storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Ohio, Pennsylvania, New Jersey, New York, Rhode Island, Connecticut, Massachusetts, New Hampshire, Vermont, Maine, Delaware, Maryland, Virginia, West Virginia, the District of Columbia, Washington, Oregon, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, South Dakota, and Minnesota, restricted to traffic originating at the named origin and destined to the named destinations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 111812 (Sub-No. 424), filed May 6, 1971. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery, and related advertising materials*, from Delavan, Wis., and Chicago, Ill., to points in Minnesota, South Dakota, North Dakota, Montana, Wyoming, Idaho, Washington, Oregon, New Mexico, Colorado, Nebraska, Iowa, Utah, and Arizona. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority under its Sub 200 at Sioux Falls, S. Dak., to perform a through service to California, but indicates that it has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Omaha, Nebr.

No. MC 112223 (Sub-No. 88), filed May 14, 1971. Applicant: QUICKIE TRANSPORT COMPANY, a corporation, 501 11th Avenue South, Minneapolis, MN 55415. Applicant's representative: Earl Hacking, 503 11th Avenue South, Minneapolis, MN 55415. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid concrete admixtures* in bulk, in specialized equipment, from Minneapolis, Minn., to points in Minnesota, Wisconsin, North Dakota, South Dakota, and Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 112304 (Sub-No. 48), filed May 6, 1971. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from Ravenna, Mich., to points in Illinois, Indiana, Iowa, New York, Ohio, Pennsylvania; and Wisconsin, and (2) *equipment, materials, and supplies* used in the manufacture and processing of iron and steel articles, on return. NOTE: Applicant states that tacking possibilities exist with its Sub 1 "size and weight" authority to serve all points in Michigan, but it is not contemplated at this time. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113362 (Sub-No. 213), filed May 13, 1971. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Raymond W. Ellsworth, Post Office Box 227, Seneca, PA 16346. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood furniture parts, hardwood squares, hardwood rounds, edge glued hardwood*

*panels, and millwork*, from points in Cattaraugus and Chatauqua Counties, N.Y., and points in Venango County, Pa., to points in Virginia, North Carolina, and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Buffalo, N.Y.

No. MC 113828 (Sub-No. 191), filed May 17, 1971. Applicant: O'BOYLE TANK LINES, INC., Post Office Box 30006, Washington, DC 20014. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006 and John F. Grimm (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, in bulk from facilities used by A. E. Staley Manufacturing Co. at or near Morrisville, Pa., to points in Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of shipments originating at the named origins and destined to the named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at the District of Columbia.

No. MC 114106 (Sub-No. 84), filed May 11, 1971. Applicant: MAYBELLE TRANSPORT COMPANY, a corporation, Post Office Box 849, Lexington, N.C. 27292. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, dry, and in bulk, from Charlotte, N.C., to points in Tennessee. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant holds contract carrier authority under MC 115176 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114211 (Sub-No. 152), filed May 10, 1971. Applicant: WARREN TRANSPORT, INC., 324 Manhard, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Charles W. Singer, Suite 1625, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except those with vehicle beds, bed frames, and fifth wheels), (2) *equipment*, designed for use in conjunction with tractors, (3) *agricultural, industrial, and construction machinery and equipment*, (4) *trailers*, designed for the transportation of the above-described commodities (except those designed to be drawn by passenger automobiles), (5) *attachments*, for the above-described commodities, (6) *internal combustion engines*, (7) *parts*, of the above-described commodities when moving in mixed loads with such commodities, and (8) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities described in (1) through (7) above between Grand Island, Nebr., on the one hand, and, on the other, points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Alabama, New York, Pennsylvania, West Virginia, Virginia, North Carolina, Michigan, South Carolina, Georgia, Florida, Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, and Maryland. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at same time and place as duplicate applications of Daily Express and International Transport, or Chicago, Ill.

No. MC 115113 (Sub-No. 23), filed May 10, 1971. Applicant: IOWA PACKERS XPRESS, INC., Post Office Box 231, Spencer, IA 51301. Applicant's representative: Bill Husby (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk) as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsites and warehouse facilities utilized by United Packing of Iowa, located at or near Sioux City, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restrictions: The service proposed herein are restricted to the transportation of traffic originating at the above-named origin points and destined to the above-named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Omaha, Nebr.

No. MC 115152 (Sub-No. 228), filed May 6, 1971. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particle board*, from the plantsite and storage facilities of Duraflake South, Inc., at or near Simsboro, La., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico, restricted to traffic originating at the named origin and destined to points in the named territory. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., Memphis, Tenn., Atlanta, Ga., or Washington, D.C.

No. MC 115523 (Sub-No. 165), filed May 11, 1971. Applicant: CLARK TANK LINES COMPANY, a corporation, 1450 Beck Street, Salt Lake City, UT 84116. Applicant's representative: Haines D. Stratford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diatomaceous earth*, in bulk, and *diatomaceous earth* in bags, in mixed loads with distomaceous earth, in bulk, from Clark and Colado, Nev., to points in Arizona, Oregon, and Washington. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Reno, Nev., and Salt Lake City, Utah.

No. MC 115826 (Sub-No. 217), filed May 12, 1971. Applicant: W. J. DIGBY, INC., 1960 31st Street, Post Office Box 5088 T.A., Denver, CO 80217. Applicant's representative: Robert R. Digby, 217 Luhrs Tower, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, requiring refrigeration, from Lafayette, Ind., to points in Indiana (South of U.S. Highway 36), Illinois, Iowa, Colorado, Kansas, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.—Chicago, Ill.

No. MC 116101 (Sub-No. 9), filed May 14, 1971. Applicant: QUICK AIR FREIGHT, INC., Cargo Building, Port Columbus Airport, Columbus, Ohio. Applicant's representatives: James R. Stiverson-Edwin H. van Deusen, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mining machine parts*, in emergency service, from Columbus, Ohio to points in the United States east of the Mississippi River, except points in Illinois, Indiana, Kentucky, Louisiana, Michigan, Minnesota, New York, Pennsylvania, and West Virginia and (2) *used mining machine parts*, from points in the United States east of the Mississippi River, except points in Illinois, Indiana, Kentucky,

Louisiana, Michigan, New York, Minnesota, Pennsylvania, and West Virginia to Columbus, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 116763 (Sub-No. 192), filed May 7, 1971. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel wire, cable, strand and spirals*, from Jacksonville, Fla., to points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana. NOTE: Appplicant states that the requested authority may have tacking possibilities with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 116821 (Sub-No. 6) (Correction), filed April 15, 1971, published in the FEDERAL REGISTER issue of May 13, 1971 and republished as corrected this issue. Applicant: FURNITURE DELIVERY, INC., Box 374, Columbiana, OH 44408. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, OH 43215. NOTE: The purpose of this partial republication is to show the subject carrier as being located in Columbiana, Ohio, in lieu of Columbia, Ohio, as incorrectly shown in previous publication. The rest of the application remains the same.

No. MC 116935 (Sub-No. 11) (Amendment), filed January 12, 1971, published in the FEDERAL REGISTER issues of February 11, 1971 and March 18, 1971, respectively, and republished as amended, this issue. Applicant: COMMERCIAL FURNITURE DISTRIBUTORS, INC., 1000 Belleville Turnpike, Kearny, NJ 07032. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, in containers, between the facilities of Commercial Furniture Distributors, Inc., at Kearny and Harrison, N.J., on the one hand, and, on the other, points in Nassau, Suffolk, Westchester, Orange, Rockland, and Putnam Counties, N.Y., and points in New York, N.Y., and New Jersey, restricted to shipments having prior movement via rail or motor carrier. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to add Harrison, N.J., thereby, making the movement applicable from said plantsite. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 117574 (Sub-No. 203), filed May 10, 1971. Applicant: DAILY EXPRESS, INC., Post Office Box 39, Carlisle, PA 17013. Applicant's representatives: E. S. Moore, Jr. (same address as applicant) and James W. Hagar, 100 Pine Street, Post Office Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water and sewer pipe, conduit, attachments, and fittings* for conduit, water and sewer pipe (except clay pipe, conduit, attachments, and fittings), between St. Louis, Mo., on the one hand, and, on the other, points in Delaware, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the authority sought herein can be tacked with existing authority held by applicant. It is not however, the applicant's present intention to tack, and therefore the tackable authorities are not identified herein. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or St. Louis, Mo.

No. MC 117815 (Sub-No. 175), filed May 10, 1971. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from the plantsite and storage facilities utilized by Beefland International, Inc., at Council Bluffs, Iowa, and Omaha, Nebr., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, and Wisconsin. Restricted to traffic originating at the plantsite and storage facilities utilized by Beefland International, Inc., at Council Bluffs, Iowa, and Omaha, Nebr. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 118831 (Sub-No. 80), filed May 12, 1971. Applicant: CENTRAL TRANSPORT, INC., Post Office Box 5044 (Uwharrie Road), High Point, NC 27262. Applicant's representative: Richard E. Shaw (same address as above) and E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from New Hanover County, N.C., and Spartanburg County, S.C., to points in Tennessee. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack, and therefore, does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Raleigh, N.C.

No. MC 119422 (Sub-No. 49), filed May 21, 1971. Applicant: Ee-JAY MOTOR TRANSPORTS, INC., 15th and Lincoln, East St. Louis, IL 62204. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vericle, over irregular routes, transporting: *Fertilizer, fertilizer materials, fertilizer ingredients, herbicides, fungicides, pesticides, and rodenticides* in containers, from East St. Louis, Ill., to points in Missouri, Kansas, Oklahoma, Arkansas, Nebraska, Iowa, Kentucky, and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 119626 (Sub-No. 8), filed May 21, 1971. Applicant: ILL.-PAC. COAST TRANSPORTATION CO., a corporation, 1601 Market Street, Madison, IL 62060. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts*, as described in section A of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from St. Louis, Mo., Springfield and Chicago, Ill., to points in Arizona, New Mexico, and Nevada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 119767 (Sub-No. 269), filed May 6, 1971. Applicant: BEAVER TRANSPORT CO., a corporation, Post Office Box 188, Pleasant Prairie, WI 53158. Applicant's representative: Allan B. Torhorst, Post Office Box 186, Pleasant Prairie, WI 53158. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and products* used in or produced by the food processing industry (except commodities in bulk), between Lawton, Decatur, and Paw Paw, Mich., on the one hand, and, on the other, points in Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be

involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 119908 (Sub-No. 12), filed May 4, 1971. Applicant: WESTERN LINES, INC., Post Office Box 1145, Houston, TX 77001. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from the plantsite of Woodward Walker Willamette, Inc., at Minden, La., and from the plantsite of Santiam Southern, Inc., at Ruston, La., to points in Arkansas on and south of U.S. Highway 70, and points in that part of Mississippi on and south of U.S. Highway 78. NOTE: Applicant holds contract carrier authority under MC 110814 and subs, therefore, dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 119945 (Sub-No. 32), filed May 21, 1971. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer ingredients, insecticides, herbicides, fungicides, pesticides, and rodenticides*, in containers, from East St. Louis, Ill., to points in Kentucky, Arkansas, Missouri, Kansas, Oklahoma, Nebraska, Iowa, and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 123407 (Sub-No. 81), filed May 7, 1971. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue South, Minneapolis, MN 55404. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Composition board, and materials, accessories, and supplies* used in the installation thereof, from points in Alpena County, Mich., to points in the United States in and east of Montana, Wyoming, Colorado, Oklahoma, Arkansas, and Louisiana (except North Dakota, South Dakota, and Minnesota); and (2) *materials, supplies, and equipment* used in the manufacture of composition board, from points in the above described destination area to points in Alpena County, Mich. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked to its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 125168 (Sub-No. 19), filed May 13, 1971. Applicant: OIL TANK LINES, INC., Post Office Box 190, Darby, PA 19023. Applicant's representatives: James R. Stiverson and Edwin H. van Deusen, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum oils*, in bulk, in tank vehicles, from Bradford and Karns City, Pa., to The Pennsylvania Refining Co. plant at or near North Bergen, N.J.; from Paulsboro and Pettys Island, N.J., to Karns City, Pa. The operations sought herein above limited to a transportation service to be performed under a continuing contract with The Pennsylvania Refining Co.; (2) *petroleum oils*, in bulk, in tank vehicles; (a) from Pettys Island, N.J., to Rouseville, Pa.; (b) from Paulsboro, N.J., to Rouseville and Reno, Pa., and Falling Rock, W. Va.; (c) from Reno, Pa., to Jersey City, N.J.; (d) from Falling Rock, W. Va., to Clifton, Jersey City, Newark and Sewaren, N.J.; and (e) from Rouseville, Pa., to North Bergen, Paterson, Pennsauken, Pettys Island, Piscataway, and Sewaren, N.J., Falling Rock, W. Va., Baltimore and Beltsville, Md.; (3) *Petroleum wax*, in bulk, in tank vehicles, from Rouseville, Pa., to Bayonne, Brainards, Harrison, Kenvil, and Parlin, N.J., and Falling Rock, W. Va.; and (4) *petroleum oils and wax*, in bulk, in tank vehicles, from Reno and Rouseville, Pa., to New York, N.Y. The operators sought in Items 2, 3 and 4 herein above are limited to a transportation service to be performed under a continuing contract with Pennzoil United, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 125440 (Sub-No. 11), filed May 10, 1971. Applicant: JULES TISCHLER, doing business as RARITAN MOTOR EXPRESS, 129 Lincoln Boulevard, Middlesex, NJ 08846. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete panels, and materials, supplies, and equipment* used in the manufacture, erection or installation thereof (except commodities in bulk and those which because of their size and weight, require the use of special equipment), between Worcester, Mass., on the one hand, and, on the other, points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, under contract with Granite Research Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 126196 (Sub-No. 5), filed May 13, 1971. Applicant: LUVERNE S. CHRISTENSEN, doing business as CHRISTENSEN TRUCK LINE, 206 West 11th Street, Redwood Falls, MN 56283. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, from Redwood Falls, Minn., to Boston, Mass., Chicago, Ill., Detroit, Mich., Houston, Tex., New Orleans, La., New York, N.Y., Philadelphia, Pa., and St. Louis, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 126241 (Sub-No. 1), filed May 5, 1971. Applicant: PRYOR TRUCKING, INC., 816 Orleans Avenue, Keokuk, IA 52632. Applicant's representative, Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, fiberboard, pulpboard and fiberboard products, machinery, materials, and supplies*, used in the manufacture of paper and boxes, and *starch and chemicals* used in the manufacture of glue (except commodities in bulk); (1) between Keokuk, Iowa, on the one hand, and, on the other, points in Kansas and Nebraska; (2) between Burlington, Iowa, on the one hand, and, on the other, points in Illinois; (3) between Des Moines, Iowa, on the one hand, and, on the other, points in Nebraska; and (4) between Montrose, Iowa, on the one hand, and, on the other, points in Illinois, Kansas, Missouri, and Nebraska, under contract with Hoerner Waldorf Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Des Moines, Iowa.

No. MC 126537 (Sub-No. 26), filed May 7, 1971. Applicant: KENT I. TURNER, KENNETH E. TURNER, AND ERVIN L. TURNER, a partnership, doing business as TURNER EXPEDITING SERVICE, Post Office Box 21333, Standiford Field, Louisville, KY 40221. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) between Tri-Cities Airport, Sullivan County, Tenn., and points in Roanoke and Tazewell Counties, Va.; (2) from Tazewell County, Va., to Newark Airport, Newark, N.J.; and (3) between Standiford Field, Louisville, Ky., and John F. Kennedy Airport, Jamaica, N.Y., restricted to shipments having a prior or subsequent movement by air. NOTE: Applicant has contract carrier authority under MC 129652, therefore dual operations may be involved. Applicant states tacking is proposed at all common points with applicant's existing authority for through service between those points sought to be served herein and all points

presently authorized to be served by applicant. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn., or Charlotte, N.C.

No. MC 126585 (Sub-No. 4), filed May 10, 1971. Applicant: L. TRETON TRANSPORT, LTD., Lime Ridge, PQ Canada. Applicant's representative: Edwin W. Free, Jr., 25 Keith Avenue, Barre, VT 05641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, from ports of entry located in Maine and New Hampshire, on the international boundary line between the United States and Canada, to points in Massachusetts, Maine, New Hampshire, and Vermont, under contract with Dominion Lime, Ltd. NOTE: If a hearing is deemed necessary, applicant requests it be held at Burlington, Vt.

No. MC 127028 (Sub-No. 7), filed May 12, 1971. Applicant: BREDEHOEFT PRODUCE COMPANY, INC., Decatur, Ark. 72722. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs, vinegars, alcohol, and ammonia* (except commodities in bulk), from Rogers, Ark., to points in the United States (except Alaska and Hawaii); (2) *glass and plastic containers, including closures and corrugated paper cartons therefor*, from Jackson, Miss., New Orleans, La., Palestine, Tex., and Okmulgee, Sand Springs, Ada, and Muskogee, Okla., to Rogers, Ark.; (3) *sugar*, from Supreme, La., to Rogers, Ark., and (4) *fertilizer*, from Selma, Mo., to Rogers, Ark. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Little Rock, Ark.

No. MC 128273 (Sub-No. 96), filed May 12, 1971. Applicant: MIDWESTERN EXPRESS, INC., Box 189, Fort Scott, KS 66701. Applicant's representative: Danny Ellis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, products produced or distributed by manufacturers or converters of paper and paper products, materials, equipment, and supplies* used in the manufacture and distribution of paper products (except commodities in bulk, and commodities which because of size or weight, require the use of special equipment), between Asheville, Canton, and Waynesville, N.C.; Hamilton and Piqua, Ohio; Houston, Tex., and Lawrence County, Ala., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 128343 (Sub-No. 17), filed May 11, 1971. Applicant: C–LINE, INC., Tourtellot Hill Road, Chepachet, R.I. 02814. Applicant's representative: Ronald N. Cobert, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vhicle, over irregular routes, transporting: (1) *Insulated copper and aluminum wire and cable and related accessory parts*, from Lincoln, R.I., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, South Dakota, Ohio, Oklahoma, Texas, Wisconsin, and Rhode Island; and (2) *materials, equipment, and supplies* (except in bulk), from the destination states in (1) above to Lincoln, R.I., under contract with Collyer Insulated Wire Co., a Gulf & Western Systems Co. NOTE: If a hearing is deemed necessary applicant requests it be held at Washington, D.C., or Providence, R.I.

No. MC 128471 (Sub-No. 1), filed May 14, 1971. Applicant: LAHMANN FILM SERVICE, INC., 5657 Green Acres Court, Cincinnati, OH 45211. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, OH 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except classes A and B explosives and commodities in bulk, between Cleveland Hopkins Airport near Cleveland, Ohio, and Greater Cleveland Airport in Boone County, Ky., restricted to freight having a prior or subsequent movement by air and moving on an air carrier's bill of lading and received by the same air carrier. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati or Columbus, Ohio.

No. MC 129187 (Sub-No. 2), filed May 7, 1971. Applicant: CLAY PRODUCTS TRANSPORT, INC., Post Office Box 429, Dover, OH 44622. Applicant's representative: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and related supplies* used in the manufacture of iron and steel, between Dover Township, Tuscarawas County, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, New York, Pennsylvania, West Virginia, and Wisconsin, under a continuing contract with The Greer Steel Co. NOTE: Applicant holds common carrier authority under MC 87532 and subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 129713 (Sub-No. 6), filed May 13, 1971. Applicant: CHESTERFIELD STEEDE AND EDWIN STEEDE, doing business as STEEDE TRUCKING, 194–55 111th Road, Hollis, NY 11412. Applicant's representative: William J. Hanlon, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hospital and laboratory instruments, equipment, and materials*, between Piscataway, N.J., on the one hand, and, on the other, New York, N.Y., and points in Nassau County, N.Y., under contract with IPCO Hospital Supply Corp., and its wholly owned subsidiaries. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 129718 (Sub-No. 3), filed May 14, 1971. Applicant: ARNOLD P. BANWART, doing business as BANWART TRUCKING COMPANY, West Bend, Iowa 50597. Applicant's representative: Clayton L. Wornson, 824 Brick & Tile Building, Mason City, Iowa. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Animal and poultry feed additives* (except liquid animal and poultry feed additives in bulk), from West Bend, Iowa, to Alpha, Ill., under contract with West Bend Processing Co., West Bend, Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Mason City or Des Moines, Iowa.

No. MC 134458 (Sub-No. 1), filed May 12, 1971. Applicant: BUD'S CHAMPLIN SERVICE, INC., doing business as BUD'S WRECKER SERVICE, a corporation, 406 First Avenue West, Spencer, IA 51301. Applicant's representative: Marshall D. Becker, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Repossessed vehicles*, by use of wrecker equipment only, from points in the United States (except Alaska, Hawaii, and Nebraska), to Omaha, Nebr.; and (2) *wrecked, disabled, stolen and replacement vehicles, including trailers* (but not those classified as mobile homes), by use of wrecker equipment only, between points in the United States east of the eastern boundaries of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states that authority is sought to transport wrecked and disabled vehicles even though such transportation normally falls within the exemption of section 203(b)(10) because, in many cases, the wrecked and disabled vehicles will first be taken to a garage where they will then be picked up by applicant. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 134910 (Sub-No. 4), filed May 10, 1971. Applicant: CALLIS TRUCKING, INC., Clay and Market Streets, Box 25, Centerton IN 46116. Applicant's representative: Warren C. Moberly 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from points in Marion County, Ohio, to points in an area in Indiana bounded on the north by Indiana State Highway 218 at the Indiana-Ohio State line; thence running in a westerly direction along said Indiana State Highway 218 to its junction with Indiana

State Highway 15; thence northwesterly along Indiana State Highway 15 to its junction with Indiana State Highway 16; thence westerly along Indiana State Highway 16 to its junction with U.S. Highway 41; thence north along U.S. Highway 41 to its junction with Indiana State Highway 114; thence westerly along Indiana State Highway 114 to the Indiana-Illinois State line; and bounded on the south by U.S. Highway 50, under continuing contract, or contracts, with Richard D. Light, doing business as Architectural Brick Sales. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 134922 (Sub-No. 10), filed May 18, 1971. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representatives: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603, and George Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* (other than frozen), from Mitchell, S. Dak., to points in Louisiana, Texas, Oklahoma, New Mexico, Arkansas, Arizona, Colorado, Nevada, California, Utah, Washington, Oregon, Idaho, and Montana. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Chicago, Ill.

No. MC 134922 (Sub-No. 11), filed May 10, 1971. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representatives: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603, and George Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquettes in bags*, from Cotter, Ark., to points in Oklahoma, Arkansas, Tennessee, Illinois, Missouri, Kansas, Nebraska, Iowa, Colorado, Arizona, Mississippi, Louisiana, Texas, and California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 135075 (Sub-No. 1), filed May 7, 1971. Applicant: M. M. SMITH STORAGE WAREHOUSE, INC., 811 Old Wilmington Road, Post Office Box 3535, Fayetteville, NC 28305. Applicant's representative: Vaughan S. Winborne, 1108 Capitol Club Building, Raleigh, N.C. 27601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, having a prior or subsequent movement by rail-trailers on flatcar service (piggy back operation), between points in Cumberland, Sampson, Harnett, Lee, Hoke, Moore, Scotland, Robeson, Bladen, and Edgecombe Counties, N.C. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Raleigh or Fayetteville, N.C.

No. MC 135121 (Sub-No. 1), filed May 5, 1971. Applicant: DODSWORTH, INCORPORATED, doing business as GENERAL PARCEL SERVICE, 324 Short Street, Erie, PA 16512. Applicant's representative: John Guandolo, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk, and commodities requiring special equipment), (1) between Cleveland-Hopkins Airport, Ohio, and Port Erie International Airport, Pa.; and (2) between points in Erie and Crawford Counties, Pa., restricted to shipments having a prior or subsequent movement by air. NOTE: If a hearing is deemed necessary, applicant requests it be held at Erie, Pa., or Cleveland, Ohio.

No. MC 135183 (Sub-No. 2), filed May 18, 1971. Applicant: KERR CONTRACT CARRIAGE, INC., Route 4, Salem, Mo. 65560. Applicant's representative: B. W. LA TOURETTE, JR., 611 Olive Street, Suite 1850, St. Louis, MO 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, charcoal briquettes, and associated barbeque items*, from the plantsite of Floyd Charcoal Co. near Salem, Mo., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Ohio, Oklahoma, Wisconsin, Pennsylvania, Texas, Virginia, and Tennessee and (2) *Cornstarch* from Paris, Ill., and *Paper bags*, from Savannah, Ga., and West Monroe, La., to the plantsite of Floyd Charcoal Co., near Salem, Mo., under contract with Floyd Charcoal Co., and Cupples Co. Manufacturers. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 135299 (Sub-No. 1), filed May 10, 1971. Applicant: LEE'S TRUCKING, INC., 1 19th Avenue South, Minneapolis, MN 55404. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, which are at the time moving on bills of lading of Freight Forwarders, from Chicago, Ill., to Minneapolis, Minn. NOTE: Applicant now holds contract carrier authority under its No. MC 133490 Subs No. 1 and 3, therefore dual operations may be involved. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 135488 (Sub-No. 1), filed May 14, 1971. Applicant: RICHARD CARLTON, doing business as DICK CARLTON TRUCKING, 257 West Royal Parkway, Williamsville, NY 14221. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Fredonia, N.Y., to points in Connecticut, Florida, Iowa, Georgia, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, and Wilmington, Del., and from North Abington, Mass., plantsite to points in Connecticut, Maine, Maryland, New Hampshire, New Jersey, Rhode Island, and New York, N.Y., Philadelphia, Pa., and Wilmington, Del., under a continuing contract with Mitchell Foods, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Buffalo or Rochester, N.Y.

No. MC 135583, filed May 4, 1971. Applicant: STAR MOVING AND STORAGE, INC., Post Office Box 579, Laramie, WY 82070. Applicant's representative: Ward A. White, Post Office Box 568, Cheyenne, WY 82001. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Laramie, Wyo., on the one hand, and, points in the State of Wyoming. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cheyenne, Wyo.

No. MC 135585, filed May 6, 1971. Applicant: SID COCKRELL, doing business as COMMERCIAL AUTO DELIVERY, 8647 Scott Street, Rosemead, CA 91770. Applicant's representative: Roger J. Nichols, 510 South Spring Street, Los Angeles, CA 90013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles and trucks* in secondary movements in driveaway and in truckaway service, from points in California to points in the United States (except Hawaii), and from points in the United States (except Hawaii) to points in California. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 135604, filed May 12, 1971. Applicant: COVE TRANSFER & STORAGE, INC., Post Office Box 421, East Highway 190, Copperas Cove, TX 76522. Applicant's representative: Charles W. Lynch, Post Office Drawer 31, Lampasas, TX 76550. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, between Copperas Cove, Tex., on the one hand, and, on the other, points in Coryell, Lampasas, Burnet, Williamson, Bell, Falls, and McLennan Counties, Tex. Restriction: The authority sought above is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points applied for, and further restricted to the performance of pickup and delivery service in connection with packing,

crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at Austin, Waco or Fort Worth, Tex.

No. MC 135605, filed May 14, 1971. Applicant: WILKINSON TRANSPORT, INC., Post Office Box 25, Barton, AR 72312. Applicant's representative: R. Connor Wiggins, Suite 909, 100 North Main Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals and ingredients thereof*, between the plantsite of the Helena Chemical Co., at West Helena, Ark., on the one hand, and, on the other, Conroe, El Campo, Lubbock, Mission, and Greenville, Tex.; Haiti, Mo.; Humboldt, Tenn.; Tunica, Belzoni, Cleveland, and Yazoo City, Miss.; Bossier City, Delhi, Ferriday, Bunkie, Thiebodeaux, and Kinder, La.; Tanner, and Dothan, Ala.; and Cordele, Ga. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Little Rock, Ark.

MOTOR CARRIER PASSENGERS

No. MC 228 (Sub-No. 72), filed April 29, 1971. Applicant: HUDSON TRANSIT LINES INC., 17 Franklin Turnpike, Mahwah, NJ. Applicant's representative: Samuel B. Zinder, Station Plaza East, Great Neck, N.Y. 11021. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspaper* in the same vehicle with passengers and their baggage; (a) from junction U.S. Highway 6 and Interstate Highway 84 at or near Matamoras, Pa., over Interstate Highway 84 to junction Pennsylvania Highway 507 at or near Greentown, Pa.; thence over Pennsylvania Highway 507 to junction U.S. Highway 6 at or near Tafton, Pa., and return over the same route, serving all intermediate points; and (b) from junction Interstate Highway 84 and Pennsylvania Highway 402 at or near Blooming Grove, Pa., over Pennsylvania Highway 402 to junction U.S. Highway 6 at or near Tafton, Pa., and return over the same route serving all intermediate points. NOTE: Common control may be involved. Applicant states no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Honesdale, Pa., or Port Jervis, N.Y.

No. MC 1515 (Sub-No. 166), filed May 11, 1971. Applicant: GREYHOUND LINES, INC., 1400 West Third Street, Cleveland, OH 44113. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, in round-trip sightseeing or pleasure tours, beginning and ending at points in Wayne, Iredell, and Gaston Counties, N.C.; and Chester, Chesterfield, Lancaster, and York Counties, S.C., and extending to points in the United States including Alaska, but excluding Hawaii. NOTE: If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 1515 (Sub-No. 167), filed May 11, 1971. Applicant: GREYHOUND LINES, INC., 1400 West Third Street, Cleveland, OH 44113. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, in round-trip sightseeing or pleasure tours, beginning and ending at points in Allen, Athens, Auglaize, Belmont, Franklin, Guernsey, Harrison, Jefferson, Licking, Logan, Meigs, Muskingum, Pickaway, Ross, Union, and Washington Counties, Ohio, and extending to points in the United States (including Alaska, but excluding Hawaii). NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Cambridge, or Lima, Ohio.

No. MC 29957 (Sub-No. 88), filed May 12, 1971. Applicant: CONTINENTAL SOUTHERN LINES, INC., 1785 Highway 80 West, Jackson, MS 39204. Applicant's representative: D. Paul Stafford, 315 Continental Avenue, Dallas TX 75207. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers, (1) between Fort Polk, La., and the junction of Louisiana Highway 184 and Louisiana Highway 8, from Fort Polk over Louisiana Highway 184 to the junction of Louisiana Highway 8 and Louisiana Highway 184; and (2) between Fort Polk, La., and the junction of Louisiana Highway 469 and Louisiana Highway 8, from Fort Polk over Louisiana Highway 469 to the junction of Louisiana Highway 8 and Louisiana Highway 469, and return over the same routes, and serving all intermediate points in (1) and (2) above. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Alexandria, La., or Jackson, Miss.

No. MC 61802 (Sub-No. 4), filed May 13, 1971. Applicant: THE COLONIAL TRANSIT COMPANY, INCORPORATED, 310 Charlotte Street, Fredericksburg, VA 22401. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, betwen Dale City, Va., and Washington, D.C., as follows: From Dale City over Virginia Highway 642 to its junction with Interstate Highway 95, thence over Interstate Highway 95 to Washington, D.C.; and return over the same route, serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dale City, Va., or Washington, D.C.

No. MC 107583 (Sub-No. 49), filed May 5, 1971. Applicant: SALEM TRANSPORTATION CO., INC., 133-03 35th Avenue, Flushing, NY 11354. Applicant's representative: George H. Rosen, 265 Broadway, Post Office Box 348, Monticello, NY 12701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, express and newspapers*, in the same vehicle with passengers, in special and charter operations, over irregular routes, between points in Burlington, Camden, and Mercer Counties, N.J., on the one hand, and, on the other, John F. Kennedy International Airport, La Guardia Airport, New York, N.Y., and the piers and docks in the New York, N.Y., commercial zone as defined by the Commission. NOTE: Common control may be involved. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Trenton or Camden, N.J.

No. MC 135572, filed May 4, 1971. Applicant: PITT LIMO, INC., 46 River Road, Wheeling, WV 26003. Applicant's representative: D. L. Bennett, 129 Edgington Lane, Wheeling, WV 26003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, between Morgantown, W. Va., on the one hand, and, on the other, the Greater Pittsburgh Airport, located on U.S. Highway 22 near Pittsburgh, Pa. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 135602, filed May 12, 1971. Applicant: ROAD HOG, INC., 1 William Street, New York, NY 10004. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage and personal effects*, in charter and special operations, consisting of nonscheduled service conducted in vehicles equipped with berths and dining, kitchen, lavatory, and recreational equipment storage facilities and limited to not more than nine passengers, not including the driver, in any one vehicle, beginning and ending at New York, N.Y., and points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y.; Bergen, Passaic, Hudson, Essex, Morris, Union, Middlesex, and Monmouth Counties, N.J., and Fairfield County, Conn., and extending to points in the United States (except Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130145, filed May 10, 1971. Applicant: RUSSELL RICKER COOK, Sr., doing business as RUSSELL R. COOK TRAVEL SERVICE, R.F.D. Merriam Hill, Greenville, N.H. 03048. For a license (BMC-5) to engage in operations as a *broker* at Greenville, N.H., in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of passengers and their baggage, both as individuals and in groups, in special and charter operations, beginning and ending at points in Worcester County, Mass., and Hillsboro and Cheshire Counties, N.H., and extending to points in the United States.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 103993 (Sub-No. 634), filed May 10, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representatives: Paul Borghesani and Ralph H. Miller (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movements, from points in Middlesex County, N.J., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

No. MC 114877 (Sub-No. 7), filed May 6, 1971. Applicant: CARGO-IMPERIAL FREIGHT LINES, INC., 23 South Essex Avenue, Orange, NJ 07051. Applicant's representative: Irving Klein, 280 Broadway, New York, NY 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading); Route 1. (a) Between the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., on the one hand, and, on the other, the junction of Massachusetts Highway 15/Interstate Highway I86 and U.S. highway 20 at or near Sturbridge, Mass., serving the terminal site of Cooper-Jarrett, Inc., located at or near Newburgh, N.Y., as an intermediate point, as follows: From the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., thence over New York Highway 63 to the junction of U.S. Highway 15, thence over U.S. Highway 15 to the junction of New York Highway 17, thence over New York Highway 17 to the Interstate Highway I84, thence over Interstate Highway I84 to Newburgh, N.Y., thence over Interstate Highway I84 to Hartford, Conn., thence over Interstate Highway I86 to the Massachusetts/Connecticut State line, thence over Massachusetts Highway 15/I86 to the junction of U.S. Highway 20 at or near Sturbridge, Mass., and return over the same route;

(b) Between the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., on the one hand, and, on the other, Springfield, Mass., serving the terminal site of Cooper-Jarrett, Inc., located at or near Newburgh, N.Y., as an intermediate point, as follows: From the Junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., over the routes aforedescribed to Hartford, Conn., thence over Interstate Highway I91 to Springfield, Mass., and return over the same route. Route 2. Between the Junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., on the one hand, and, on the other, Hartford, Waterbury, and Bridgeport, Conn., serving the terminal site of Cooper-Jarrett, Inc., located at or near Newburgh, N.Y., as an intermediate point, as follows: (a) from the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., to Newburgh, N.Y., over the regular routes described in "Route 1", thence over Interstate Highway I84 to Hartford, Conn., and return over the same route; (b) from the Junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., to Newburgh, N.Y., over the regular route described in "Route 1", thence over Interstate Highway I84 to Waterbury, Conn., and return over the same route; (c) from the junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., to Newburgh, N.Y., over the regular route described in "Route 1", thence over Interstate Highway 84 to the Junction of Connecticut Highway 34, thence over Connecticut Highway 34 to the Junction with Connecticut Highway 114, thence over Connecticut Highway 114 to the Junction of U.S. Highway 1, thence over U.S. Highway 1 to Bridgeport, and return over the same route.

Route 3. (a) Between the Junction of New York Highway 33 and New York Highway 63 at Batavia, N.Y., on the one hand, and, on the other, Providence, R.I., serving the terminal site of Cooper-Jarrett, Inc., located at or near Newburgh, N.Y., as an intermediate point, as follows: From the Junction of New York Highways 33 and 63 at Batavia, N.Y., to Newburgh, N.Y., over the regular route described in "Route 1", thence over Interstate Highway 84 to the Junction of Connecticut Highway 34, thence over Connecticut Highway 34 to the Junction with Connecticut Highway 122, thence over Connecticut Highway 122 to the Junction with Interstate Highway I95, thence over Interstate Highway I95 to Providence, R.I., and return over the same route. Route 4. (a) Between the Junction of New York Highways 33 and 63 at Batavia, N.Y., on the one hand, and, on the other, Albany, N.Y., serving the terminal site of Cooper-Jarrett, Inc., located at or near Newburgh, N.Y., as an intermediate point, as follows: From the junction of New York Highways 33 and 63 at Batavia, N.Y., to Newburgh, N.Y., over the regular route described in "Route 1", thence over Interstate Highway I87 to Albany, N.Y., and return over the same route. NOTE: Common control may be involved.

No. MC 126561 (Sub-No. 3) (Correction), filed March 15, 1971, published FEDERAL REGISTER, issue of April 8, 1971, and republished as corrected this issue. Applicant: STARLIN MITCHELL, doing business as MITCHELL TRUCKING COMPANY, Route 3, Box 194 H, Corbin, KY 40701. Applicant's representative: Ollie L. Merchant, Suite 202, 140 South Fifth Street, Louisville, KY 40402. NOTE: The purpose of this republication is to correct the docket number assigned thereto as shown above. Previous publication gave Sub-No. 2, which was in error. The rest of the notice remains as previously published.

No. MC 135599, filed May 5, 1971. Applicant: GLENN WITTENBURG, doing business as WITTENBURG TRUCK LINES, Readlyn, Iowa. Applicant's representative: James E. O'Donohoe, 26 North Chestnut Avenue, New Hampton, IA 50659. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic agricultural drain tile, plastic water pipe, and plastic storm and sanitary drain tile*, from Oelwein, Iowa, and points in Iowa, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Illinois, Wisconsin, and Minnesota, to the city of Findlay, Ohio.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-7700 Filed 6-3-71;8:45 am]

## MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS

### Administrative Ruling on Assessment of Storage Charges During Strike

MAY 20, 1971.

The following is an administrative ruling of the Bureau of Operations made in response to questions propounded by the public, indicating what is deemed by the Bureau to be the correct application and interpretation of the Act. Rulings of this kind are tentative and provisional and are made in the absence of authoritative decisions upon the subject by the Commission.

Question: May a motor common carrier of household goods which has a shipment in its possession, but has made no tender of delivery at the destination residence, place such goods in storage-in-transit and assess storage and other related charges on the ground that delivery cannot be accomplished because employees of household goods carriers or employees of agents or warehousemen used by such carriers located in the destination area are on strike?

Answer: No. Under section 216(b) of the Interstate Commerce Act (49 U.S.C. 316(b)), it is the duty of every common carrier of property by motor vehicle to

provide adequate service, equipment, and facilities for the transportation of property in interstate or foreign commerce and to establish, observe and enforce just and reasonable practices relating thereto. It is also made a condition of every certificate of public convenience and necessity issued by the Commission that the holder shall render reasonably continuous and adequate service to the public in pursuance of the authority granted.

In Pickup and Delivery Restrictions, 303 I.C.C. 579, 594, it was held that "the mere existence of a strike or picketing does not necessarily prevent performance of pickup and delivery service." It was pointed out that the "intangible barriers of peaceful picket lines coupled with union contractual provisions acquiesced in by the carriers constitute something less than the physical obstructions historically acceptable at common law," and that the Interstate Commerce Act reinforces the common law obligation to serve shippers. In other words, physical obstruction to performance by the carrier must be analogous to what was considered at common law as an overwhelming, intervening force outside the legal control of the carrier.

Additionally, in Galveston, 73 M.C.C. 617, 626, 627, it was held that the provisions of the Act and the duties and obligations of common carriers under the Act are not subordinate to the requirements of labor unions and that where failure to provide service is claimed to be excusable, the burden is on the carrier to show that it did everything in its power to fulfill its obligation to the public and was prevented from so doing by circumstances clearly beyond its control.

In view of the foregoing, it is the position of this Bureau that in the circumstances cited in the question, the assessing of storage and attendant charges against the householder or shipper is not permissible.

[SEAL] R. D. PFAHLER,
*Director,*
*Bureau of Operation.*

[FR Doc.71-7813 Filed 6-3-71;8:53 am]

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[Notice 305]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 28, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

### MOTOR CARRIERS OF PROPERTY

No. MC 9325 (Sub-No. 53 TA), filed May 20, 1971. Applicant: K LINES, INC., 341 Foothills Road, Lake Oswego, OR 97034. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities*, in bulk, excluding cement, lime, urea, sugar, and wood residuals, between points in Oregon and Washington, for 180 days. Supporting shippers: Webfoot Fertilizer Co., Inc., 201 Southeast Washington Street, Portland, OR 97214; Peavey Co., 1100 Board of Trade Building, Portland, Oreg. 97204; Albers Milling Co., 1118 Northwest Front Street, Portland, OR 97209; Mill-Rite Farms, Route 2, Box 84, Albany, OR 97321; Cominco American, Inc., 2312 Lloyd Center, Portland, OR 97232; North Pacific Trading Co., 1505 Southeast Gideon Street, Portland, OR 97208; Portland Rendering Co., Post Office Box 17201, Portland, OR 97217; Pacific Supply Cooperative, 915 Northeast Davis Street, Portland, OR 97208; and H. J. Stoll & Sons, Inc., 2320 Southeast Grand Avenue, Portland, OR 97214. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 30837 (Sub-No. 436 TA), filed May 23, 1971. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Post Office Box 160, Kenosha, WI 53140. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boat trailers*, designed to be drawn by passenger automobiles, in truckaway service, from Algonac, Mich., to Cortland, N.Y., for 180 days. Supporting shipper: (Charles Creque) Chris Craft Corp., Cortland, N.Y. 13046. Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 52303.

No. MC 41657 (Sub-No. 1 TA), filed May 23, 1971. Applicant: ROSENDO DIAZ AND JOSE GARCIA DE LOS SALMONES, a partnership, doing business as JENSEN MOVERS, 5527 North Second Street, Philadelphia, PA 19120. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Philadelphia, Pa., and Camden, N.J., on the one hand, and, on the other, points in Florida, for 180 days. NOTE: Applicant states it intends to tack the authority here applied for to other authority held by it, or to interline with other carriers, under MC 41657. Supporting shipper: There are approximately 14 statements of support attached to the application which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the Field Office named below. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 41951 (Sub-No. 13 TA), filed May 20, 1971. Applicant: WHEATLEY TRUCKING, INC., 125 Brohawn Avenue, Post Office Box 458, Cambridge, MD 21613. Applicant's representative: Marion L. Wheatley, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, dry, in bulk (except in hopper or pneumatic equipment), and in bags, from Chesapeake, Va., to Seaford, Del., and Berlin and Cambridge, Md., for 180 days. Supporting Shipper: George W. Olson, Traffic Manager, Distribution Department, Smith-Douglass, Division of Borden Chemical, Borden, Inc., Norfolk, Va. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Old Post Office Building, Salisbury, MD 21801.

No. 88368 (Sub-No. 25 TA), filed May 19, 1971. Applicant: CARTWRIGHT VAN LINES, INC., 4411 East 119th Street, Grandview, MO 64030. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in California and Arizona, on the one hand, and, on the other, Colorado, Kansas, Missouri, Oklahoma, Texas, Louisiana, and Nebraska and (2) between Colorado, Kansas, Missouri, Oklahoma, Texas, Louisiana, and Nebraska on the one hand, and, on the other, Florida, Virginia, New Jersey, Maryland, New York, and South Carolina, for 180 days. Supporting shippers: Karevan, Inc., Post Office Box 9240, Queen Anne Station, Seattle, WA 98109; Sunpak Movers, Inc., 534 Westlake Avenue North, Seattle, WA 98109; Columbia Export Packers, Inc., 19032 South Vermont Avenue, Torrance, CA 90502; International Export Packers, Inc., 5360 Eisenhower Avenue, Alexandria, VA 22304; Higa Fast Pac, Inc., 465 California Street, Suite 530, San Francisco, CA 94104; Stan's Vans, 1335 West 11th Street, Long Beach, CA 90813, and Door to Door International, Inc., 308 Northeast

72d Street, Seattle, WA 98115. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 107295 (Sub-No. 514 TA), filed May 21, 1971. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ventilators, ventilator systems, parts and equipment thereof*, from the plantsite and warehouse facilities of Swartwout Division of Zurn Industries, Inc., at Kokomo, Ind., to points in California, Nevada, Utah, and Arizona, for 180 days. Supporting shipper: Zurn Industries, Inc., Swartwout Division, 1000 North Touby Pike, Kokomo, IN 46901. Send protests to: Harold Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 107403 (Sub-No. 811 TA), filed May 21, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polypropylene dry plastic materials*, in pellet form, in bulk, from Asbury Park, N.J., to Syracuse, N.Y., for 180 days. Supporting shipper: Shell Oil Co., Melrose Building, Post Office Box 2099, Houston, TX 77001. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 107496 (Sub-No. 811 TA), filed May 21, 1971. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Post Office Box 855, 50304, Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid calcium chloride*, in bulk, in tank vehicles, from Duluth, Minn., to points in Wisconsin, for 150 days. Supporting shipper: The Dow Chemical Co., Bennett Building, 2030 Dow Center, Midland, Mich. 48640. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 110988 (Sub-No. 268 TA), filed May 24, 1971. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neehah, WI 54936. Applicant's representative: Dabid A. Petersen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank or hopper-type vehicle, from Hartford City, Ind., to points in Wisconsin, for 180 days. Supporting shipper: Minnesota Mining and Manufacturing Co. (3M Company), 3M Center, St. Paul, Minn. 55101. (K. A. Kumm, Manager, Transportation Operations). Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 113267 (Sub-No. 267 TA), filed May 21, 1971. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in appendix 1, sections A and C to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and facilities of Illini Beef Packers, Inc., Joslin, Ill., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper: G. James Bonnette, Director of Traffic, Illini Beef Packers, Inc., Joslin, Ill. 61201. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 114273 (Sub-No. 90 TA), filed May 21, 1971. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, 3930 16th Avenue SW., Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, commodities in bulk, in tank vehicles), from the plantsite and/or storage facilities utilized by Aristo Kansas Meat at Holton and Topeka, Kans., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Ohio, Michigan, Indiana, Wisconsin, Illinois, and the District of Columbia, for 150 days. Supporting shipper: Kansas Meat Packers, Division of A. F., Inc., Post Office Box 327, Holton, KS 66436. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 114273 (Sub-No. 91 TA), filed May 21, 1971. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, 3930 16th Avenue SW., Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses as described in appendix 1, sections A and C, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (specifically excepting hides, pelts, and commodities in bulk, in tank vehicles), from Joslin, Ill., to points in Colorado, Connecticut, Indiana, Maine, Massachusetts, Michigan, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, and Vermont, restricted to traffic originating at the plantsite and/or storage facilities utilized by Illini Beef Packers, Inc., at or near Joslin, Ill., and destined to the named destinations, for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill. Send protests to: Herbert W. Allen Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 116544 (Sub-No. 126 TA), filed May 24, 1971. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, MO 64836. Applicant's representative: Robert Wilson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, and hides), from the plantsite and storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Texas, and Memphis, Tenn., for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 116996 (Sub-No. 7 TA), filed May 20, 1971. Applicant: B & B BARRIERS, INC., Post Office Box 207, Coatesville, PA 19320. Applicant's representative: William R. Keen, Jr. (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Slag*, from Claymont, Del., to Conshohocken, Pa., for 180 days. NOTE: Applicant states it intend to tack the authority here applied for to other authority held by it, or to interline with other carriers, under MC 116996. Supporting shipper: International Mill Service, Post Office Box 348, Coatesville, PA 19320. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 1910.

No. MC 117132 (Sub-No. 1 TA), filed May 23, 1971. Applicant: NYARI TRUCKING, INC., Post Office Box 46, Bryan, OH 43506. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron*, from Bryan and Defiance, Ohio, to Danville, Ill., for 150 days. Supporting shipper: George Isaac Co., Post Office Box 667, Bryan, OH 43506. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 125194 (Sub-No. 14 TA), filed May 19, 1971. Applicant: STATE LINE DAIRY, INC., 1015 State Line Road, Niles, MI 49120. Applicant's representative: J. M. Neath, Jr., One Vanderberg Center, Grand Rapids, Mich. 49502. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk and dairy products and filled or imitation milk and dairy products, fruit drinks and salads*, from Indianapolis, Ind., to Angola, Mishawaka, Kendallville, Warsaw, East Chicago, Portage, Goshen, Plymouth, Michigan City, South Bend, Gary, Elkhart, La Grange, Mappanee, La Porte, and Munster, Ind. (Applicant states operations will be conducted via Niles, Mich.), with return of damaged or rejected merchandise only, for 180 days. Supporting shipper: Dairy Foods Division, The Kroger Co., 6801 English Avenue, Indianapolis, IN 46219. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 128075 (Sub-No. 12 TA), filed May 21, 1971. Applicant: LEON JOHNSRUD, 409 Second Avenue SW., Cresco, IA 52136. Applicant's representative: C. J. Anderson, Post Office Box 136, Elwood & Anderson Building, Cresco, IA 52136. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Decorah, Iowa, to Spencer, Wis., for 180 days. Supporting shipper: Decorah Creamery Co., Decorah, Iowa. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 129350 (Sub-No. 12 TA), filed May 20, 1971. Applicant: CHARLES E. WOLFE, doing business as EVERGREEN EXPRESS, Post Office Box 212, 410 North 10th Street, Billings, MT 59101. Applicant's representative: J. F. Meglen, Post Office Box 1581, Billings, MT 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Rosebud County, Mont., to Denver, Colo., and the commercial zone thereof, for 180 days. NOTE: Applicant states it does intend to tack the authority here applied for to other authority held by it, or to interline with other carriers. Supporting shipper: Ashland Lumber Co., Post Office Box 78, Ashland, MT 59003. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 133390 (Sub-No. 1 TA), filed May 21, 1971. Applicant: H. IMME & SONS, INC., West 145 S6550 Tess Corners Drive, Muskego, WI 53150. Applicant's representative: William C. Dineen, 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Potato chips, shoestring potatoes, popcorn, nut meats, corn twists, corn chips, caramel corn, cheese corn, pretzels, and tomato juice*, from Milwaukee, Wis., to points in the Upper Peninsula of Michigan, for the account of Geiser's Potato Chip Co., for 180 days. Supporting shipper: Geiser's Potato Chip Co., 3113 West Burleigh Street, Milwaukee, WI 53210 (George Schulkewitz, General Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Milwaukee, WI 53203.

No. MC 135007 (Sub-No. 5 TA), filed May 24, 1971. Applicant: AMERICAN TRANSPORT, INC., Post Office Box 37406, Millard, NE 68137. Applicant's representative: Frederick J. Coffman, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plant, warehouse and storage facilities utilized by National Beef Packing Co. at or near Liberal, Kans., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Maryland, Delaware, District of Columbia, West Virginia, Ohio, and Virginia, under continuing contract with National Beef Packing Co., for 150 days. Supporting shipper: National Beef Packing Co., 1501 East Eighth Street, Liberal, KS. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 135281 (Sub-No. 3 TA), filed May 20, 1971. Applicant: RAYMOND LANGLEY, doing business as LANGLEY TRUCKING, Route No. 4, Box 61, Elizabethtown, KY 42701. Applicant's representative: George Catlett, Suite 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement clinker*, in bulk, in dump vehicles, from the plantsite of Louisville Cement Co., at Speed, Ind., to the plantsite of Kosmos Portland Cement Co., at Kosmosdale, Ky., for 180 days. Supporting shipper: Tom Mobley, Kosmos Portland Cement Co., Dixie Highway, Kosmosdale, Ky. 40272. Send protests to: Wayne L. Merilatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 135363 (Sub-No. 1 TA), filed May 24, 1971. Applicant: CONSOLIDATED PACKAGE DELIVERY, INC., 1036 Baronne Street, Post Office Box 50926, New Orleans, LA 70150. Applicant's representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cosmetics, toilet preparations, toilet articles and premiums*, and (2) *Equipment and supplies* used in connection with items in (1) above, from New Orleans, La., to Louisiana parishes of Iberia, St. Mary, Iberville, part of St. Martin, Assumption, Ascension, Livingston, East Feliciana, St. Helena, Tangipahoa, St. James, Terrebonne, LaFourche, St. Charles, St. Tammany, St. John the Baptist, Orleans, Jefferson, St. Bernard, Plaquemines, and Washington and to points in the counties of Jefferson, Adams, Wilkinson, Franklin, Amite, Lincoln, Pike, Lawrence, Walthall, Jefferson Davis, Marion, Covington, Lamar, Jones, Forrest, Perry, Wayne, Greene, Stone, Pearl River, Hancock, Harrison, George, and, Jackson, Miss., for 180 days. Supporting shipper: Avon Products, Inc., 2200 Cotillion Drive, Atlanta, GA 30302, W. R. Dykes, Branch Transportation Manager. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room T–4009 Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 135617 TA, filed May 20, 1971. Applicant: LIL'S TRUCKING SERVICE, INC., 5029 Express Drive, Rokonkoma (Suffolk County), NY 11779. Applicant's representative: Samuel B. Zinder, Station Plaza East, Great Neck, N.Y. 11021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radios, televisions, hi-fi equipment, tape recorders and parts and materials thereof*, between Moonachie, N.J., and New York, N.Y., under continuing contract with Sony Corporation of American, for 150 days. Supporting shipper: Sony Corporation of American, Eastern Distribution Center, One Sony Drive, Moonachie, NJ 07074. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 135623 TA, filed May 21, 1971. Applicant: RAINBOW EXPRESS, INC., 3400 Old Highway 99, Marysville, WA 98270. Applicant's representative: George Kargianis, 2120 Pacific Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, from

points in Minnesota to points in Washington, for 180 days. Supporting shippers: National Distributing Co., 621 East 25th Street, Tacoma, WA 98421; Anacortes Distributing Co., 735 Fairhaven Avenue, Burlington, WA 98233; Totem Beverages, Inc., 1520 Grady Way SW., Renton, WA 98055; Ruget Sound Distributors, 239 Bruen Avenue, Bremerton, WA 98310. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

MOTOR CARRIER OF PASSENGERS

No. MC 29850 (Sub-No. 6 TA), filed May 21, 1971. Applicant: TRENTON-PHILA. COACH CO., 200 West Wyoming Avenue, Philadelphia, PA 19140. Applicant's representative: F. Berdan, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, (a) from the intersection of Whitman Boulevard and Haddonfield-Berlin Road, then on Haddonfield-Berlin Road to Evesham Avenue, to Burnt Mill Road, to its intersection with Haddonfield-Berlin Road, and return; (b) beginning at the intersection of Chapel Avenue and Kings Highway, then on Chapel Avenue, Haddonfield Road, Church Road and Kings Highway to its intersection with Chapel Avenue: Restriction: No interstate passengers will be transported whose trip begins or ends along Chapel Avenue or Haddonfield Road; (c) beginning at the intersection of Marlton Pike (New Jersey Route 70) and Green Tree Road, then on Green Tree Road to Olney Avenue, to Pin Oak Drive, to Springdale Road, to its intersection with Marlton Pike, and return, and (d) beginning at the intersection of Kings Highway and Munn Avenue, then over Kings Highway to Linden Street, to Euclid Avenue, to Port Authority Transit Corp. Station Driveway, and return. Restriction: No interstate passengers will be transported whose trip begins or ends on the portion of Kings Highway delineated, or Linden Street or Euclid Avenue, for 180 days. NOTE: Applicant intends to tack the authority here applied for to MC 29850 Sub 5. Supporting shippers: Board of Commissioners, Township Council, Cherry Hill Township, Cherry Hill, N.J., and Board of Commissioners, Borough of Haddonfield, Haddonfield, N.J. Send protests to: F. W. Doyle, District Supervisor, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-7810 Filed 6-3-71;8:52 am]

## FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 1, 1971.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42213—*Salt to Charlotte, N.C.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 3004), for interested rail carriers. Rates on salt, common (sodium chloride), in bulk, in carloads, as described in the application, from Watkins Glen, N.Y., and Akron, Ohio, to Charlotte, N.C.

Grounds for relief—Market competition.

Tariffs—Supplements 99 and 82 to Traffic Executive Association-Eastern Railroads, agent, tariffs ICC A-907 (Boin series), and C-262, respectively. Rates are published to become effective on July 1, 1971.

FSA No. 42214—*Fertilizer and fertilizer materials from points in Canada.* Filed by Southwestern Freight Bureau, agent (No. B-239), for interested rail carriers. Rates on fertilizer, dry and fertilizer material, dry, in carloads, as described in the application, from specified points in Canada, to points in southwestern territory.

Grounds for relief—Market competition and rate relationship.

Tariff—Canadian Pacific Railway (West), tariff ICC W. 1091. Rates are published to become effective on July 2, 1971.

FSA No. 42215—*Wheat, wheat flour and barley from specified points in Montana.* Filed by North Pacific Coast Freight Bureau, agent (No. 71-5), for and on behalf of Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Rates on wheat, wheat flour, and barley, in carloads, as described in the application, from specified points in Montana, to specified ports in Washington and Oregon.

Grounds for relief—Unregulated truck competition.

Tariff—Supplement 72 to North Pacific Coast Freight Bureau, agent, tariff ICC 1117. Rates are published to become effective on July 1, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-7811 Filed 6-3-71;8:52 am]

## J. V. McNICHOLAS TRANSFER CO., ET AL.

### Assignment of Hearings

JUNE 1, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-14552 Sub 40, J. V. McNicholas Transfer Co., assigned June 7, 1971, Washington, D.C., hearing canceled and application dismissed.

FD-23178, Chesapeake & Ohio Railway Co. and Baltimore & Ohio Railroad Co.—Control—Western Maryland Railway Co. assigned July 19, 1971, Washington, D.C., postponed indefinitely.

MC-79658 Sub 12, Atlas Van-Lines, Inc., assigned June 23, 1971, in Room 1086-A, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Ill.

No. 35377, Oklahoma Intrastate Freight Rates and Charges, 1971, assigned September 8, 1971, at Oklahoma City, Okla., at a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-7812 Filed 6-3-71;8:53 am]

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